

File  
Reed

82480633

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

SUPERIOR COURT OF

SAMUEL ALBERT REED,  
Plaintiff

vs.

) 96-050750

PHILIP MORRIS INCORPORATED, )  
Defendant )

-----

Deposition of STEPHEN THOMAS JONES,  
taken on Tuesday, April 22, 1997, at 10:05 a.m., at  
the law offices of Arnold & Porter, 555 12th  
Street, N.W., Washington, D.C., before E. Duane  
Smith, Notary Public.

-----

THE REALTIME REPORTING GROUP, INC.  
(410) 752-1733

Reported by:  
E. Duane Smith, RPR-CRR

82480634

THE REALTIME REPORTING GROUP, INC.

1 SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

2

3 SAMUEL ALBERT REED, )

4 Plaintiff )

5 vs. ) CIVIL ACTION NO.

6 ) 96-050750

7 PHILIP MORRIS INCORPORATED, )

8 Defendant )

9 -----

10

11

12 Deposition of STEPHEN THOMAS JONES,

13 taken on Tuesday, April 22, 1997, at 10:05 a.m., at

14 the law offices of Arnold & Porter, 555 12th

15 Street, N.W., Washington, D.C., before E. Duane

16 Smith, Notary Public.

17

18

19 THE REALTIME REPORTING GROUP, INC.

(410) 752-1733

20

Reported by:

21 E. Duane Smith, RPR-CRR

82480634

THE REALTIME REPORTING GROUP, INC.

## 1 APPEARANCES:

2

3

4

MARC Z. EDELL, ESQUIRE

5

Edell &amp; Associates

6

1776 On The Green

7

Morristown, New Jersey 07962

8

9

10

JOHN C.M. ANGELOS, ESQUIRE

11

J. ROBERT WARREN, II, ESQUIRE

12

Law Offices of Peter Angelos

13

210 W. Pennsylvania Avenue

14

Towson, Maryland 21204

15

On behalf of the Plaintiff

16

17

18

19

20

21

82480635

THE REALTIME REPORTING GROUP, INC.

1 (APPEARANCES CONTINUED)

2

3

GARY R. LONG, ESQUIRE

4

CRAIG E. GUSTAFSON, ESQUIRE

5

Shook, Hardy & Bacon, P.C.

6

One Kansas City Place

7

1200 Main Street

8

Kansas City, Missouri 64105-2118

9

On behalf of Defendant

10

Lorillard, Inc.,

11

Lorillard Tobacco Company

12

Loews Corp.

13

14

JACK LIPSON, ESQUIRE

15

DARRYL W. JACKSON, ESQUIRE

16

Arnold & Porter

17

555 12th Street, N.W.

18

Washington, D.C. 20004-1202

19

On behalf of Defendant

20

Phillip Morris, Inc.

21

82480636

THE REALTIME REPORTING GROUP, INC.

1 (APPEARANCES CONTINUED)

2

3

STEPHEN P. VAUGHN, ESQUIRE

4

Skadden, Arps, Slate,

5

Meagher & Flom, LLP

6

1440 New York Avenue, N.W.

7

Washington, D. C. 20005-2111

8

On behalf of Defendant

9

Unites States Tobacco Company

10

UST, Inc.

11

12

ROGER A. HIPPI, ESQUIRE

13

Jones, Day, Reavis & Pogue

14

North Point

15

901 Lakeside Avenue

16

Cleveland, Ohio 44114

17

On behalf of Defendant

18

R.J. Reynolds Tobacco Company

19

RJR Nabisco, Inc.

20

21

82480637

THE REALTIME REPORTING GROUP, INC.

1                                    STIPULATION

2                                    It is stipulated and agreed by and  
3        between counsel for the respective parties that the  
4        filing of this deposition with the Clerk of Court  
5        is hereby waived.

6                                    -----

7                                    **STEPHEN THOMAS JONES,**

8        being first duly sworn to tell the truth, the whole  
9        truth, and nothing but the truth, testified as  
10       follows:

11                                  EXAMINATION BY MR. EDELL:

12                    Q.        Dr. Jones?

13                    A.        Yes, sir.

14                    Q.        We introduced ourselves before the  
15        deposition began. My name is Marc Edell. I'm an  
16        attorney participating with the plaintiffs in this  
17        Reed case. Your name has been furnished to us  
18        together with an affidavit indicating that you are  
19        going to be an expert in this case. Do you  
20        understand that?

21                    A.        Yes, sir.

82480638

THE REALTIME REPORTING GROUP, INC.

1 Q. Have you ever had your deposition taken  
2 previously?

3 A. Yes, sir.

4 Q. And in what matters?

5 A. Long time ago, a matter, an  
6 international matter with the Brown & Williamson,  
7 B.A.T., and Philip Morris.

8 Q. What kind of case was it?

9 A. After we sold our international  
10 business, it was an argument between the two  
11 companies that were left. I don't remember the  
12 details.

13 Q. After we sold?

14 A. Lorillard, in 1977, to it was shortly  
15 after that.

16 Q. Sold its international business?

17 A. International trademarks to B.A.T. and  
18 Brown & Williamson.

19 Q. You have had time to prepare for this  
20 deposition and meet with attorneys?

21 A. Yes, sir.

82480639

1 Q. Understand that the testimony that you  
2 give here today can be used in a variety of ways?

3 A. Yes, sir.

4 Q. Do you understand that you are not to  
5 answer any questions unless you know the answer to  
6 the question and you understood the question?

7 A. Yes, sir.

8 Q. If you don't understand any of my  
9 questions, please tell me and I'll rephrase the  
10 question, right?

11 A. Yes.

12 Q. If at any juncture you want to refer to  
13 a document to refresh your memory with respect to  
14 any particular fact, please feel free to ask your  
15 attorney or me if I have a document to look at it,  
16 okay?

17 A. Yes, sir.

18 Q. Your expertise is in the area of  
19 chemistry; is that correct?

20 A. Primarily product development. I'm a  
21 chemist by training.

82480640



1 Q. Your graduate degree is in what?  
2 A. Organic chemistry.  
3 Q. Organic chemistry. Can you draw for us  
4 the chemical structure of nicotine?  
5 A. Yes. I think I can.  
6 Q. Excuse me?  
7 A. I can come close. I'm not absolutely  
8 positive.  
9 Q. Let me see if I can save you a little  
10 time.  
11 A. To the answer is no. I can't.  
12 Q. How is that?  
13 A. I was close.  
14 Q. Does that look like nicotine to you?  
15 A. Yes. I was almost there.  
16 Q. We have shown the witness P-16 for  
17 identification. Doctor, can you tell us what is  
18 depicted in P-16?  
19 A. It is the structure in writing of the  
20 molecule of nicotine.  
21 Q. Are there any cigarettes that have been

82480641

THE REALTIME REPORTING GROUP, INC.

1     manufactured and sold to the public by Lorillard,  
2     which don't contain nicotine?

3             A.     No, sir.

4             Q.     Are there any cigarettes that have been  
5     manufactured and sold to the public by Lorillard,  
6     which contain a structure, a nicotine structure,  
7     other than that depicted in P-16?

8             A.     Not to my knowledge.

9             Q.     All the cigarettes manufactured and sold  
10    to the public by Lorillard have contained nicotine  
11    that is of the same chemical structure; is that  
12    correct?

13            A.     Yes, sir.

14            Q.     What is the pharmacological agent that  
15    is in cigarettes that affects the human body?

16            A.     I'm not an expert in pharmacology, but  
17    nicotine is an important compound in that regard.

18            Q.     Is there any difference in -- let me  
19    back up a bit. A person who smokes cigarettes  
20    receives the nicotine through the particulate phase  
21    of the smoke; is that correct?

82480642

1 A. Yes, sir.

2 Q. And does the particulate phase of any of  
3 the cigarettes that have been manufactured by  
4 Lorillard differ with respect to the amount of  
5 nicotine?

6 A. In terms of the amount of nicotine, yes.

7 Q. In terms of the actual composition of  
8 the chemical nicotine, does it differ in any way?

9 A. I don't think to. There is a  
10 possibility of the nicotine that acts as a salt and  
11 the nicotine that is free could be different in  
12 some way.

13 Q. I want to know what you do know and  
14 don't know. You are the expert. I'm not the  
15 expert.

16 A. I don't know that there is any  
17 difference.

18 Q. And does the nicotine that is contained  
19 in the particulate phase of any of the smoke  
20 produced by any of the cigarettes manufactured by  
21 Lorillard affect the smoker in any different way?

82480643

THE REALTIME REPORTING GROUP, INC.

1 A. I don't understand the question.

2 Q. In other words, let me back up a little  
3 bit.

4 Why is it that Lorillard has not sold  
5 any cigarettes that do not contain nicotine?

6 MR. LONG: I will object. That is very  
7 broad. You can take a shot at it, if you want.

8 A. Primarily, because there hasn't been a  
9 market for the very low nicotine or nonnicotine  
10 cigarettes. Others have tried.

11 Q. Has there been any market research  
12 conducted by Lorillard to see whether or not there  
13 is a market for a nonnicotine cigarette?

14 A. Not to my knowledge.

15 Q. How do you know that there is not a  
16 market for it?

17 A. Because Philip Morris tried it and it  
18 was unsuccessful.

19 Q. When did Philip Morris try it?

20 A. I don't know specifically, I know it was  
21 during the time frame of the eighties.

82480644

THE REALTIME REPORTING GROUP, INC.

1 Q. The eighties, and what was the  
2 cigarette?

3 A. Two are versions, if I recall, one was  
4 called Next and one was called Merit De-Nic.

5 Q. How do you know it was unsuccessful?

6 A. I had access to sales data which  
7 indicated it was not successful.

8 Q. Was there any attempt to determine why  
9 it was unsuccessful?

10 A. Would you repeat the question?

11 Q. Yes. Was there any attempt to determine  
12 why those two products that were sold by Philip  
13 Morris were unsuccessful?

14 A. We conducted a test with that product  
15 among consumers and found they didn't care for it.

16 Q. In what respect didn't they care for it?

17 A. They just didn't give it a high rating  
18 on acceptability. They didn't like it.

19 Q. Did Lorillard come to any conclusions  
20 with respect to why they did not give it any high  
21 ratings, this panel of consumers?

82480645

THE REALTIME REPORTING GROUP, INC.

1 A. I came to a personal conclusion.

2 Q. What was that?

3 A. Lack of nicotine.

4 Q. Lack of nicotine?

5 A. Yes.

6 Q. What, if anything, did you conclude with  
7 respect to why it was that the absence of nicotine  
8 affected the consumer's acceptability of these two  
9 cigarettes?

10 MR. LONG: I'll object as vague and  
11 ambiguous. Go ahead and answer, if you can.

12 A. My judgment, the product was too far  
13 outside the mainstream of cigarettes available to  
14 smokers. It was too different. They didn't find  
15 it enjoyable.

16 Q. Did you come to any conclusions as to  
17 why it was not enjoyable?

18 A. Nothing in addition to what I have  
19 already stated.

20 Q. Lorillard has done research with respect  
21 to the composition of cigarette smoke, correct?

82480646

THE REALTIME REPORTING GROUP, INC.

- 1           A.     Correct.
- 2           Q.     Were you involved in any of that
- 3     research?
- 4           A.     Not directly, no.
- 5           Q.     You were involved indirectly?
- 6           A.     I read some of the reports.
- 7           Q.     Who was involved directly in that
- 8     research?
- 9           A.     You want names? It was primarily what
- 10    we call the research group within R and D, product
- 11    development.
- 12          Q.     If you could give us the names, that
- 13    would be helpful.
- 14          A.     Jimmy Bell certainly was.
- 15          Q.     I'm sorry. I missed that?
- 16          A.     Jimmy Bell.
- 17          Q.     Is he still with the company?
- 18          A.     Yes. Alex Spears was.
- 19          Q.     Is he still with the company?
- 20          A.     Yes.
- 21          Q.     Okay.

82480647

THE REALTIME REPORTING GROUP, INC.

1 A. Fred Schultz was.

2 Q. Is he still with the company?

3 A. He is retired.

4 Q. Where is he retired to?

5 A. He lives in Greensboro, and there were  
6 various chemists reporting from time to time to  
7 Jimmy Bell. The only one I could think of off the  
8 top of my head is James Morgan, still with the  
9 company.

10 Q. Do you know whether or not Lorillard  
11 determined whether or not there were any  
12 tumor-initiating agents in a particular phase of  
13 its products?

14 A. Any tumor-initiating agents in the  
15 particulate phase of our products?

16 Q. Yes.

17 A. That is outside of my realm of  
18 expertise. I know compounds were identified in tar  
19 that were said to be tumor promoting.

20 Q. Let me ask you this: Were there any  
21 tumor-initiating agents that were determined to be

82480648

THE REALTIME REPORTING GROUP, INC.



1 in the smoke of Lorillard products that were not  
2 present in the particulate phase of any other  
3 products sold by Lorillard?

4 MR. LONG: Object as vague and  
5 ambiguous. Go ahead.

6 Q. Do you understand the question, sir?

7 A. Yes. I think I do.

8 Q. Can you answer it?

9 A. It is outside my area of expertise, but  
10 I don't believe that would be the case.

11 Q. What is benzopyrene?

12 A. A polynuclear aromatic hydrocarbon.

13 Q. Is it a tumor-initiating agent?

14 A. I don't know all the terminology in this  
15 field. My recollection is that it is considered to  
16 be a carcinogen.

17 Q. Is that agent not found in any of the  
18 smoke particulate from any cigarette ever  
19 manufactured by Lorillard?

20 A. The best of my knowledge, it would be  
21 produced in any cigarette we ever made.

82480649

THE REALTIME REPORTING GROUP, INC.

1 Q. You will have to excuse me. How about  
2 dimethylchrysine? Have I pronounced that correctly?

3 A. Yes, sir.

4 Q. Pretty good for a lawyer.

5 MR. LONG: No question pending.

6 Q. What is that, sir?

7 A. I don't know specifically. I also  
8 believe it is a PAH or polynuclear aromatic  
9 hydrocarbon.

10 Q. Is it found in smoke particulate matter?

11 A. I can't say with certainty, but I  
12 certainly believe that some chrysines are.

13 Q. Do you have reason to believe that it is  
14 not contained in all of the smoke particulate  
15 matter produced by all the cigarettes ever produced  
16 by Lorillard?

17 A. The specific chemical, I can't say. The  
18 class of chemicals I feel like they are in, I feel  
19 they would be in all cigarettes produced. The  
20 specific chrysine that you mentioned, I don't have  
21 specific knowledge of the specific chemical.

82480650

1 Q. How about dibenz [a,h] anthracene?

2 A. Similar compound to the others you  
3 mentioned.

4 Q. Found in smoke particulate matter?

5 A. Yes. On steaks that have been  
6 charcoaled or in emissions from automobiles.

7 Q. I'm not disputing that. I am talking  
8 about smoke. You are produced here to talk about  
9 cigarettes, correct?

10 A. Yes. But, again, I can't answer  
11 specifically that molecule that is in smoke or that  
12 class of molecules. I know with a high degree of  
13 certainty they have been identified in tar.

14 Q. Do you know whether or not that  
15 particular molecule is not found in any of the  
16 smoke particulate matter produced by any of the  
17 Lorillard cigarettes?

18 MR. LONG: Object as vague and  
19 ambiguous.

20 MR. EDELL: Sir, you can answer.

21 MR. LONG: Would you read the question

82480651

1 back? You had two or three negatives in there.

2 Q. Do you know whether or not that  
3 particular molecule, again, we are referring to, I  
4 don't want to say it again, is not found in any of  
5 the smoke particulate matter produced by any of the  
6 Lorillard cigarettes?

7 A. It would be my judgment if it is in one,  
8 it is in all of them. I don't know the specific  
9 chemical, but the class would certainly be found in  
10 the particulate matter of all cigarettes produced  
11 by Lorillard.

12 Q. What about benzo(B)fluoranthene, ever  
13 hear of that?

14 A. No. I have not. Sure it is not  
15 fluoranthene?

16 Q. It could be fluoranthene. I'm a lawyer,  
17 not a chemist.

18 A. Fluoranthene. I don't have specific  
19 knowledge of those types of molecules.

20 Q. All right. We talked about  
21 dibenzopyrene, right, and the various different --

82480652

1 that's a class?

2 A. Right.

3 Q. Are you familiar with indene [123] [c,d]  
4 pyrene?

5 A. Again, I'm familiar with the class of  
6 pyrenes, not the specific molecule you are  
7 referring to.

8 Q. Is the class of pyrene found in smoke  
9 particulate matter?

10 A. To my knowledge, yes.

11 Q. Are there any brands of cigarettes that  
12 have ever been produced by Lorillard that do not  
13 contain this class of molecule in their smoke  
14 particulate matter?

15 A. I wouldn't think to.

16 Q. Are you familiar with benzo C  
17 phenanthrene? Did I mispronounce that?

18 A. Phenanthrene?

19 Q. Yes.

20 A. General, general familiarity. These are  
21 a class of, in lay terms, not greatly dissimilar

82480653

THE REALTIME REPORTING GROUP, INC.

1 chemical compounds that are reported to be in smoke  
2 from all kinds of cigarettes.

3 Q. Are you familiar with chrysine?

4 A. Yes.

5 Q. What is that?

6 A. It is again a, I believe, a poly nuclear  
7 aromatic hydrocarbon, not uncommon in particulate  
8 matter.

9 Q. Is it found in the smoke particulate  
10 matter of all cigarettes ever produced by  
11 Lorillard?

12 A. I would think to.

13 Q. Are you familiar with  
14 DN3 methylchrysine?

15 A. Not the specific chemical, but, again,  
16 it is a chrysine.

17 Q. Do you have any reason to believe it is  
18 not contained in any of the smoke particulate  
19 matter of any of the cigarettes manufactured by  
20 Lorillard?

21 A. No.

82480654

THE REALTIME REPORTING GROUP, INC.

1 Q. Are you familiar with  
2 2-methylfluoranthene?

3 A. As a class, fluoranthenes, not the  
4 specific chemicals.

5 Q. Is that class of chemical contained in  
6 the smoke particulate matter of smoke produced by  
7 Lorillard cigarettes?

8 A. To the best of my knowledge, yes, it  
9 would be.

10 Q. Are you familiar with any brand of  
11 Lorillard cigarettes that does not contain that  
12 class of chemical and molecule?

13 A. I don't think there would be.

14 Q. And do you know whether or not Lorillard  
15 made any determination as to whether or not there  
16 were any co-carcinogens found in particulate matter  
17 produced by Lorillard cigarettes?

18 A. Again, this is outside my area of  
19 expertise, but I know work has been conducted in  
20 that area.

21 Q. You have read that, the results?

82480655

THE REALTIME REPORTING GROUP, INC.

1           A.     I have read some reports over the  
2 years. I don't have specific knowledge.

3           Q.     What is pyrene? Is that a class?

4           A.     It is a class of chemicals as well.

5           Q.     Is that class of chemicals found in the  
6 smoke particulate matter of cigarettes manufactured  
7 by Lorillard?

8           A.     I believe to.

9           Q.     Are there any cigarettes manufactured by  
10 Lorillard which do not contain that class of  
11 chemical pyrene?

12          A.     I doubt it.

13          Q.     Same tries with respect to  
14 methylpyrenes?

15          A.     Yes.

16          Q.     Fluoranthene?

17          A.     Yes.

18          Q.     Methylfluorthenes?

19          A.     Yes, sir.

20          Q.     When you say yes, sir, you understand  
21 that the question is whether or not it is found in

82480656

THE REALTIME REPORTING GROUP, INC.



1 smoke particulate matter in cigarettes manufactured  
2 by Lorillard, and you have no reason to believe  
3 that that particular compound is not contained in  
4 all the smoke particulate matter produced by all  
5 the cigarettes?

6 A. That's correct.

7 Q. Manufactured by Lorillard?

8 A. Yes, sir.

9 Q. The same is true with benzoperylene?

10 A. Not familiar with perylenes.

11 Q. We covered benzopyrene?

12 A. Right.

13 Q. What are catechols?

14 A. A class much chemicals broadly defined  
15 as phenyls.

16 Q. P-h-e-n-y-l-s?

17 A. Yes.

18 Q. Are phenyls found in particulate smoke  
19 matter?

20 A. Yes.

21 Q. Have they been identified as being

82480657

1 co-carcinogens?

2 A. I don't know. It is outside my area.

3 Q. You are not familiar with that?

4 A. I'm familiar they are in smoke, I'm not  
5 familiar if they are carcinogenic.

6 Q. You are not familiar with them being in  
7 any documents you have seen in the Lorillard files  
8 that suggest that have been identified as  
9 co-carcinogens?

10 A. Not specifically in those regards, I  
11 know they were discussed in memos in that regard, I  
12 don't know. I know they are part of the  
13 particulate matter.

14 Q. Are you familiar with  
15 nitrosodimethylamine?

16 A. Nitrosodimethylamine; is that close?

17 Q. That's close.

18 A. Yes.

19 Q. What is that, sir?

20 A. It is a nitrogen compound that again  
21 results from a lot of burning substances, including

82480658

THE REALTIME REPORTING GROUP, INC.

1 tobacco.

2 Q. Do you have any reason to believe it is  
3 not found in any of the particulate matter of any  
4 cigarettes ever produced by Lorillard?

5 A. I know it is. I know nitrosodiamines  
6 are reported to be in tars.

7 Q. That's a whole family of chemical  
8 compounds; is that correct?

9 A. That's correct.

10 Q. Are you familiar with carbon dioxide?

11 A. Yes, sir.

12 Q. Is carbon dioxide produced in the,  
13 produced by burning cigarettes?

14 A. Yes, sir.

15 Q. Is carbon dioxide found in the smoke  
16 produced by Lorillard cigarettes?

17 A. Yes, sir.

18 Q. Are you aware of any cigarettes ever  
19 manufactured by Lorillard that did not produce  
20 carbon dioxide?

21 A. Not to my knowledge.

82480659

1 Q. Is the same true with respect to carbon  
2 monoxide?

3 A. Yes, sir.

4 Q. That it is found in all of the, in the  
5 smoke from all of the cigarettes ever manufactured  
6 by Lorillard?

7 A. Yes, sir.

8 Q. Same is true with respect to nitrogen  
9 oxides?

10 A. Yes, sir. I'm sure it would be.

11 Q. Ammonia?

12 A. Not positive, but I'm pretty certain  
13 there would be ammonia produced from any cigarette.

14 Q. Same is true with respect to hydrogen  
15 cyanide?

16 A. Yes.

17 Q. It is found in all cigarettes ever  
18 manufactured by Lorillard, correct?

19 A. I would think to.

20 Q. Hydrazine, same is true?

21 A. I'm not as sure of that. It is not

82480660

1 unlikely, but I don't know.

2 Q. What about formaldehyde?

3 A. Yes.

4 Q. Produced in the smoke phase of all

5 cigarettes ever manufactured by Lorillard?

6 A. Yes, sir.

7 Q. Acetone?

8 A. Yes.

9 Q. Same is true?

10 A. Yes.

11 Q. Acrolein? Same is true?

12 A. Yes, sir.

13 Q. I'm not even going to try this.

14 Acetonitrile?

15 A. Acetonitrate? Does it sound like that?

16 Q. It sounds like it is spelled.

17 A. That should be produced in all

18 cigarettes.

19 Q. In all cigarettes. Same is true with

20 respect to Pyridine, p-y-r-i-d-i-n-e?

21 A. Yes.

82480661

- 1 Q. All cigarettes?
- 2 A. Yes.
- 3 Q. Of manufactured by Lorillard?
- 4 MR. LONG: You mean in the smoke?
- 5 Q. In the smoke produced by all cigarettes
- 6 ever manufactured by Lorillard?
- 7 A. I think to, yes.
- 8 Q. Same is true with respect to
- 9 3-vinylpyridine?
- 10 A. I would expect that to be the case.
- 11 Again, that is getting like some of the others.
- 12 They are essentially extensions of the basic class
- 13 of compounds.
- 14 Q. And that's again, the ones we have been
- 15 discussing in the latter part of our discussion
- 16 from carbon monoxide on, those are contained in the
- 17 gas phase?
- 18 A. That's correct.
- 19 Q. Of the burning of cigarettes, correct?
- 20 A. Yes.
- 21 Q. What is toluene?

82480662

1           A.     It is a fairly simple chemical. It is  
2     essentially benzene with a methyl group on it.

3           Q.     Is that a suspected tumorigenic agent?

4           A.     That's outside my area of expertise.  
5     Not that I am aware of. It may well be today.

6           Q.     What is NNK?

7           A.     I have seen the term. I don't recall  
8     what it is.

9           Q.     Are you familiar with anilin,  
10    a-n-i-l-i-n?

11          A.     Anilin?

12          Q.     Yes.

13          A.     Yes.

14          Q.     What is that?

15          A.     Essentially a benzene derivative.

16          Q.     Is it found in the particulate phase of  
17    smoke produced by all the cigarettes ever  
18    manufactured by Lorillard?

19          A.     I would think to. I don't know with  
20    certainty, but I believe it would be.

21          Q.     And what is norharmane?

82480663

THE REALTIME REPORTING GROUP, INC.

- 1           A.     I don't know.
- 2           Q.     Norharmane?
- 3           A.     I don't know.
- 4           Q.     Do you know what harmane is?
- 5           A.     No, sir.
- 6           Q.     Methyl quinoline?
- 7           A.     Yes.
- 8           Q.     What is that?
- 9           A.     A class of chemicals called quinolines.
- 10          Q.     What is it?
- 11          A.     I don't know with certainty. I believe
- 12               them to be a aminobenzene type compounds, not that
- 13               different from the anilin, similar to the anilin we
- 14               discussed before.
- 15          Q.     Again, it is found in the particulate
- 16               phase of cigarette smoke?
- 17          A.     I would suspect it to be.
- 18          Q.     Do you have any reason to believe that
- 19               it is not found in the particulate smoke of all the
- 20               cigarettes ever manufactured by Lorillard?
- 21          A.     No. I have no reason to believe it

82480664

THE REALTIME REPORTING GROUP, INC.



1 wouldn't be.

2 Q. Is there anything which is produced --  
3 are there any tumor producing agents that are found  
4 in the smoke particulate matter of any particular  
5 brand of Lorillards that is not found in any of the  
6 other brands?

7 MR. LONG: I object to the question as  
8 vague and ambiguous.

9 Q. Do you understand the question, sir?

10 A. I have a general understanding of the  
11 question.

12 Q. Can you answer it, please?

13 A. Am I supposed to answer?

14 MR. LONG: If you understand. If you  
15 think you understand his question, answer it.

16 Q. Answer it, please.

17 A. Repeat it, please.

18 Q. Is there anything which is produced --  
19 are there any tumor producing agents that are found  
20 in the smoke particulate matter of any particular  
21 brand of Lorillards that is not found in any of the

1 other brands?

2 MR. LONG: When you say "tumor producing  
3 agents" you mean identified in science to his  
4 belief? I mean --

5 Q. In any way, shape or form. You don't  
6 understand what the term "tumor agents" is?

7 A. Yes. I understand.

8 Q. Could you answer the question?

9 A. It is my belief that the compounds, many  
10 of the compounds you mentioned including  
11 polynuclear aromatic hydrocarbons and benzopyrenes,  
12 these compounds are thought to be tumor promoting  
13 or tumor causing.

14 In my opinion, although it is not my  
15 area of expertise, they would be in all cigarettes  
16 produced, not one brand and not in another. Any  
17 cigarette made from tobacco, I would expect them to  
18 be there.

19 Q. Anything produced in the particulate  
20 phase of any particular brand of Lorillards that is  
21 not found in the other brands?

1 A. Not to my knowledge.

2 Q. Is there anything found in the gas phase  
3 of any particular brand of Lorillard cigarettes  
4 that is not also found in the gas phase of all  
5 other cigarettes manufactured by Lorillard?

6 A. Not to my knowledge.

7 Q. Are there any tumor agents found in the  
8 gas phase of -- let me back up.

9 Are there any additives found in any  
10 Lorillard brand that are not contained in any other  
11 Lorillard brand?

12 A. Can you be specific with respect to  
13 "additive"?

14 Q. I don't know what you put in your  
15 cigarettes, Doctor, so I can't be any more  
16 specific.

17 A. Would you restate the question, please?

18 Q. Are there any additives found in any  
19 Lorillard brand that are not contained in any other  
20 Lorillard brand?

21 A. Yes, sir.

THE REALTIME REPORTING GROUP, INC.

82480667

1           Q.     Okay. Can you tell us what brands  
2 contain additives that are not found in other  
3 brands?

4           A.     We have a line of menthol cigarettes  
5 which have menthol. Non-menthol cigarettes do not  
6 have.

7           Q.     Anything else?

8           A.     You are getting into an area I'm not  
9 comfortable with, in terms of proprietary and trade  
10 secrets, when you are talking about additives.

11          Q.     You are testifying as an expert  
12 witness.

13                 MR. LONG: We have been negotiating a  
14 protective order, Craig has talked with John --

15                 MR. GUSTAFSON: John and Rob.

16                 MR. LONG: We explained our position  
17 that if the depositions go forward without a  
18 protective order in place, there may be areas we  
19 are not going to let the doctor testify about as  
20 proprietary. We discussed that. If you want to  
21 get into general areas, and if Dr. Jones can answer

1 questions without in his opinion getting into  
2 proprietary information by giving ranges or  
3 something of that nature, that's fine. We are not  
4 going to sit here and talk about recipes and things  
5 of that nature without a protective order.

6 MR. EDELL: I don't want to know  
7 quantity or recipe, I am asking him for him to  
8 identify additives, that's all. Is that still  
9 proprietary?

10 MR. LONG: I will have to ask him.

11 MR. EDELL: Take a break and ask him.  
12 Go ahead. We'll take a short break.

13 (Break.)

14 MR. EDELL: Mr. Long?

15 MR. LONG: We're not going to allow  
16 Dr. Jones to testify about additive ingredients,  
17 because the area is too much in proprietary  
18 information.

19 MR. EDELL: To the record is clear, it  
20 is my understanding from speaking with my  
21 co-counsel who are more familiar with the rules in

1 the Superior Court of the District of Columbia than  
2 I, that it is your obligation to obtain a  
3 protective order in the first instance. You  
4 haven't done that. You have produced him here as  
5 an expert witness to talk about the difference  
6 between various cigarettes that have been  
7 manufactured by Lorillard over the years. It is  
8 our position that if you direct him not to answer  
9 these questions, that similarly, he should be  
10 precluded from offering any expert testimony on the  
11 difference between the cigarettes manufactured by  
12 Lorillard.

13 To I don't want you to be surprised at  
14 some later juncture. I'm also willing to go  
15 forward in this narrow area and exclude your  
16 competitors, with the understanding that whatever  
17 is said will be maintained under seal.

18 MR. LONG: First of all, if you can find  
19 something in his affidavit about ingredients, that  
20 is one issue.

21 MR. EDELL: All right. We'll do that.

1                   MR. LONG: Secondly, I was not in on the  
2 discussions either, but I understand that  
3 Mr. Gustafson had discussions with some of your  
4 co-counsel, pointed out we didn't have a protective  
5 order, we would continue to work on one. Did we  
6 suggest putting the deposition off until that was  
7 resolved?

8                   MR. GUSTAFSON: Not specifically, we  
9 talked about putting it off to the 28th or 30th,  
10 which would have given us more time to negotiate a  
11 protective order. That was mentioned, but it was  
12 not agreed upon. I make my --

13                  MR. EDELL: As I understand it, we have  
14 certain briefing schedules, everything is tied to  
15 everything else, so we are not at liberty to extend  
16 the period to that we can come to some agreement.  
17 If we can't come to agreement, I believe that the  
18 law imposes the duty on you, if you are going to  
19 affirmatively assert him or offer him as an expert  
20 witness to get a protective order. As I said, I'm  
21 willing to enter into an agreement whereby we

82480671

THE REALTIME REPORTING GROUP, INC.

1     exclude your competitors from the room, and this  
2     portion of the testimony will be maintained under  
3     seal.

4                   MR. LONG: We had discussed this, and I  
5     understand that the possibility that this area  
6     might come up, we have discussed with some of  
7     Mr. Edell's co-counsel.

8                   MR. GUSTAFSON: Rob and I and John both  
9     discussed the fact that confidential and trade  
10    secret matters may arise during the deposition. I  
11    told them quite candidly if those issues arose, we  
12    couldn't allow him to testify without the  
13    protective order in place. We talked about, and,  
14    in fact, I faxed a protective order from another  
15    case and, in fact, the parties are near agreement  
16    on a protective order in the Maryland AG case. The  
17    bottom line is we didn't agree upon the protective  
18    order prior to this deposition, but certainly you  
19    were put on notice, and in the affidavit of  
20    Mr. Jones, there is no information there regarding  
21    additives or ingredients. To I don't think this

82480672



1 line of questioning is even relevant to his  
2 affidavit.

3 MR. LONG: Bottom line, Marc, is your  
4 people knew and our people knew that we were trying  
5 to proceed with the schedule, we didn't think that  
6 additives and ingredients would be an issue. If  
7 they were, they are trade secrets problems and we  
8 discussed it with your people. If you say you  
9 shouldn't have brought him without the protective  
10 order, let's stop the deposition, go get a  
11 protective order sometime and come back.

12 MR. EDELL: As I understand it, there  
13 was a difference in terms of what your position was  
14 on this protective order from what our position  
15 was, I wasn't participating in it, if we could not  
16 reach an accord, I think the law places an  
17 obligation on you to obtain a protective order.

18 MR. LONG: Let's don't do the deposition  
19 until we get one. My understanding was that your  
20 people in good conscious and faith with my people  
21 discussed this possibility. We were hoping that

82480673

THE REALTIME REPORTING GROUP, INC.

1 something could be resolved, something was going on  
2 in the AG case that you were involved in, that was  
3 our understanding, but to come in here and say we  
4 didn't reach one, you can't claim anything, I think  
5 is a little bit misguided given the discussions  
6 between the two sides.

7 MR. EDELL: The court will interpret all  
8 of this the way it interprets it. I certainly can  
9 work around the additive issue now, and we can  
10 isolate that issue for the court's decision.

11 MR. LONG: Okay. That's fine.

12 MR. EDELL: In any event --

13 Q. Are there any cigarettes that produce  
14 any tumorigenic or other harmful agents in the gas  
15 phase of, in their gas phase, that are not produced  
16 by all of the Lorillard cigarettes?

17 MR. LONG: I'll object again. You keep  
18 referring to tumorigenic, I mean there are tests  
19 that have shown in animals --

20 MR. EDELL: I'll withdraw the question  
21 then.

82480674

1 Q. Would you agree that all tobacco  
2 products manufactured by Lorillard contain amounts  
3 of nicotine?

4 A. Yes.

5 Q. Would you agree that all tobacco  
6 products manufactured by Lorillard have similarly  
7 contain other alkaloids?

8 A. Yes. There are other alkaloids present  
9 in tobacco.

10 Q. Would you agree that nicotine is  
11 absorbed from tobacco smoke into the lungs of  
12 smokers?

13 A. This is again outside my area of  
14 expertise, but certainly I would think to, from  
15 what I have read, yes. I'm not an expert in this  
16 area.

17 Q. What area of expertise do you visualize  
18 this encompassing, this question I just asked?

19 A. Probably pharmacology and toxicology.

20 Q. Who at Lorillard is an expert in that  
21 area?

1           A.     In toxicology?

2           Q.     On pharmacology and toxicology insofar  
3     as it pertains to my questions that I just posed on  
4     nicotine?

5           A.     I don't think we have a pharmacologist  
6     on staff. We do have a, at least one toxicologist,  
7     perhaps more than one. Dr. Dan Hecht is a  
8     toxicologist.

9           Q.     Are you familiar with nicotine and its  
10    affects on human beings?

11          A.     I've read things in the literature, I'm  
12    not an expert in nicotine pharmacology, by any  
13    means. I'm certainly aware of literature, press.

14          Q.     How many years have you been in the  
15    research and/or product development department of  
16    Lorillard?

17          A.     Been with the company 28 years, all of  
18    which were not in that department, but a  
19    significant portion has been.

20          Q.     Have you ever participated in the design  
21    of any cigarettes?

THE REALTIME REPORTING GROUP, INC.

82480676

1 A. Yes, sir.

2 Q. Which cigarettes?

3 A. Are you referring to new brands or  
4 revisions to existing brands?

5 Q. All of the above.

6 A. I participated in the design of Newport  
7 as it is sold today, Kent Golden Lights, Kent III,  
8 Triumph, Maverick, Style.

9 Q. That was a big one?

10 A. Still selling some. Versions of Old  
11 Gold, Max, probably some involvement with  
12 practically all the brands we sell today.

13 Q. Was nicotine ever at issue with respect  
14 to the design or revision of any of these brands?

15 MR. LONG: Objection. Vague and  
16 overbroad.

17 A. Does this mean I answer or don't  
18 answer?

19 MR. LONG: You can answer, if you  
20 understand what he is asking?

21 A. Only from the standpoint that we had

82480677

1 parameters for new brands which included tar and  
2 nicotine deliverance.

3 Q. Who provided those parameters with  
4 respect to nicotine?

5 A. Generally the marketing department for a  
6 new brand. It wouldn't be nicotine in isolation.  
7 We would be asked to develop a product in a  
8 particular category with a tar and nicotine  
9 delivery.

10 Q. What do you mean by a particular  
11 category?

12 A. We view the U.S. industry as being made  
13 up of categories.

14 Q. What categories are those?

15 A. Nonfilter cigarettes, full-flavor  
16 cigarettes, light cigarettes, ultra-light tar  
17 cigarettes.

18 Q. When you say "we" you are talking about  
19 Lorillard?

20 A. Yes.

21 Q. To we have --

1           A.     It is generally categorized by the  
2     industry. The terms may not be identical, but they  
3     are generally referred to this way in the industry.

4           Q.     As nonfilter, full-flavor, light and  
5     ultra-low?

6           A.     Yes. Sometimes light and low-tar are  
7     used interchangeably.

8           Q.     How do you define the nonfilter  
9     category?

10          A.     They are cigarettes which don't include  
11     a filter as a part of the design.

12          Q.     How do you define the full-flavor  
13     category?

14          A.     Generally those products that deliver  
15     more than 15 milligrams of tar.

16          Q.     More than?

17          A.     15 milligrams of tar generally.

18          Q.     How do you define the light category?

19          A.     Generally those brands that deliver  
20     seven milligrams of tar, but less than 15.

21          Q.     How do you define the ultra-low

82480679

THE REALTIME REPORTING GROUP, INC.

1 cigarette?

2 A. Those that deliver 6 or fewer milligrams  
3 of tar.

4 Q. What's your understanding as to why it  
5 is broken up in those four categories?

6 A. My understanding is for marketing  
7 reasons historically.

8 Q. What do you mean by "marketing  
9 reasons"?

10 A. There was a push to lower tar cigarettes  
11 in the seventies, and a category developed and we  
12 put a name on it.

13 Q. Nicotine is the, one of the parameters  
14 that define these categories; is that correct?

15 A. Primarily, it is tar. Nicotine is  
16 attendant, but primarily the tar categories, we  
17 rarely refer to a nicotine, when we are talking  
18 about a category. Generally we refer to tar.

19 Q. It is not tar and nicotine that define  
20 the categories?

21 A. The term is used, but when we look at it

82480680



1 in development, we talk about tar categories, not  
2 tar and nicotine.

3 Q. Has it ever been part of the parameters  
4 that you have been given that you should explore  
5 the possibility of enhancing the effect of  
6 nicotine?

7 A. I'm not sure I quite understand. There  
8 have certainly been efforts to enhance the delivery  
9 of nicotine. The effect is, you are getting into  
10 an area in which I have no expertise again.

11 Q. What do you mean by "enhance the  
12 delivery of nicotine"?

13 A. There are pressures on the industry from  
14 government sources and everybody else, some years  
15 ago, to reduce tar, and at the same time, we were  
16 being told to make the nicotine higher and get the  
17 tar down, so we did a lot of work in that area.

18 Q. You are not familiar with any efforts by  
19 Lorillard to enhance the effects of nicotine in any  
20 of its cigarettes; is that correct?

21 MR. LONG: I object as vague and

82480681

THE REALTIME REPORTING GROUP, INC.

1     ambiguous.   He explained what he didn't understand  
2     about your question earlier, and you have asked it  
3     exactly the same way.

4             Q.     Let me make sure I am using the term  
5     correctly.   While I am looking at this, what is a  
6     super hi-fi category?

7             A.     That was an old term that pretty much  
8     became ultra-low tar, it was just a term that we  
9     used and it evolved into ultra light tar over the  
10    years.   It meant super high filtration or highly  
11    filtered, which is characteristic of ultra low tar  
12    cigarettes in general.

13            MR. EDELL:   I'm glad you objected to the  
14    question, counsel, because I was using the wrong  
15    phrase.

16            Q.     The phrase is enriching the nicotine.  
17    Have you ever made an effort to enrich the nicotine  
18    in any cigarettes manufactured by Lorillard?

19            A.     Made efforts in the laboratory, yes.

20            Q.     What is your understanding of efforts  
21    made by Lorillard to enrich the nicotine in the

82480682

1 laboratory?

2 A. You want a broad answer? Be more  
3 specific.

4 Q. Give me the broad answer and I'll be  
5 more specific.

6 A. A lot of efforts to doing just that,  
7 none of which were applied commercially, to my  
8 knowledge.

9 Q. Tell me about the efforts that you are  
10 referring to.

11 A. We tried adding nicotine to the tobacco  
12 through adding it to the burly casing.

13 Q. When did you first attempt to do that?

14 A. I don't know specifically. My guess  
15 would be early seventies.

16 Q. Were you responsible for that project?

17 A. Partly, I certainly was involved in that  
18 project.

19 Q. Who was the person in charge of that  
20 project?

21 A. Probably my counterpart at the time. I

1 was a supervisor in the lab and I reported to  
2 Charlie Tucker who is retired as director of  
3 product development. I guess in the sense you are  
4 asking the question, we have been in charge of the  
5 project.

6 Q. When you say "the project" did it have a  
7 name?

8 A. In product development we had a lot of  
9 work in terms of trying to boost the nicotine  
10 delivery, enrich nicotine is a term that has been  
11 used around Lorillard, enriched flavors.

12 Q. I'm talking about nicotine and I want to  
13 know the name of the first project that you recall  
14 that involved enriching nicotine in Lorillard  
15 products.

16 A. I just don't remember if we named  
17 projects in the seventies like that. I know I  
18 worked on enriching nicotine. We may well have  
19 called it enhanced nicotine or nicotine  
20 enhancement. I don't remember specifically what we  
21 called it. But everybody knew what we were talking

82480684

1 about.

2 Q. What were we talking about?

3 A. Trying to add nicotine and reduce tar,  
4 to affect the nicotine and tar ratios in smoke.

5 Q. Why were you trying to do that?

6 A. Lot of pressure on reducing tar,  
7 including from the government, a lot of press, that  
8 said you need to make cigarettes with lower tar to  
9 keep the people to enjoy the cigarettes, boost the  
10 nicotine, to we were reacting to a lot of outside  
11 pressures.

12 Q. It is not your testimony that the  
13 government was trying to get you to boost the  
14 nicotine?

15 A. It certainly wasn't unheard of in the  
16 context of those days. Absolutely. The government  
17 was supporting efforts to grow tobacco that had  
18 higher nicotine than normal tobacco, and the  
19 government was funding that.

20 Q. It is your testimony that the government  
21 was pressuring Lorillard to produce cigarettes with

82480685

1 enriched nicotine?

2 A. I think pressure is too strong a term.

3 Q. That was your phrase, not mine.

4 A. You said it differently than I intended  
5 it.

6 Q. Maybe it was just the emphasis.

7 A. I think certainly there was an effort to  
8 reduce tar. That was the main thrust. The  
9 secondary thing that came out of it said: If you  
10 are going to reduce tar, you have to give more  
11 nicotine to keep people smoking these low tar  
12 cigarettes. You have to put it in the reference of  
13 the times, in the seventies, when you didn't have  
14 the variety or the number of smokers of lower  
15 delivery cigarettes, to, yes, in that sense, there  
16 was a pressure or a call to work in that regard and  
17 we certainly did.

18 Q. It is your testimony that the government  
19 created this pressure that resulted in your efforts  
20 to develop an enriched nicotine cigarette?

21 A. I don't think it was only the

82480686

THE REALTIME REPORTING GROUP, INC.

1 government. There was a lot of discussion about  
2 the area. It was just thought to be an avenue that  
3 should be pursued in that time. It wasn't solely  
4 the government. They certainly were a party to it.

5 Q. The government was a party to your  
6 adding, attempting to add nicotine to your  
7 products?

8 A. I think to.

9 Q. Who in the government was involved in  
10 that process?

11 A. I don't know, sir.

12 Q. What is the basis for your statement?

13 A. Memory of what was going on at the time.

14 Q. Factually, where do you get that?

15 A. Factually, I can't give you an answer as  
16 to the specific person.

17 Q. Can you give me an agency?

18 A. No. I know the agronomy group at N.C.  
19 State and the extension services, both of whom got  
20 government funding were active in the area. I have  
21 a recollection of making some of these cigarettes

1 with these tobaccos for the National Cancer  
2 Institute. I don't remember the names of the  
3 specific people. That's more than 20 years ago.

4 Q. It is your testimony that you made  
5 cigarettes with enhanced nicotine contents, that is  
6 adding content for NCI; is that correct?

7 A. That is not correct.

8 Q. What did you say?

9 A. I said I made cigarettes from tobaccos  
10 that were bread to have a higher nicotine-to-tar  
11 ratio. That is different from my having added  
12 nicotine to cigarettes and sent it to NCI. I did  
13 not say that.

14 Q. It is your testimony with respect to the  
15 project where you were exploring the possibility of  
16 adding nicotine to Lorillard cigarettes, prototypes  
17 of those cigarettes were never furnished to NCI; is  
18 that correct?

19 A. Not to my knowledge, they were not.

20 Q. Tell us how Lorillard was attempting to  
21 add nicotine to their cigarettes?



1           A.     One avenue I just mentioned was adding  
2     nicotine to the burly casing.

3           Q.     How would you do that?

4           A.     A liquid formulation, flavors that are  
5     spread on, years ago, burly may have been dipped in  
6     the additive, what you may be familiar with as  
7     casing solution, that is one avenue.

8           Q.     Where do you get the nicotine from?

9           A.     We bought some nicotine in that time  
10    frame from a chemical or a flavor house, I don't  
11    remember specifically whom. I remember purchasing  
12    it.

13          Q.     Somehow would it be delivered?

14          A.     Smaller quantities could be purchased in  
15    any chemical supply firm.

16          Q.     How were they delivered, how was this  
17    nicotine delivered?

18          A.     To us from a supplier?

19          Q.     Yes.

20          A.     Small amounts would be in a bottle, a  
21    liter, or down to the size of a Coke bottle there.

THE REALTIME REPORTING GROUP, INC.

82480689

1 Q. What about large orders?

2 A. The biggest I recall was one 55-gallon  
3 drum.

4 Q. Did the people in marketing ever ask for  
5 you to develop an enriched nicotine cigarette?

6 A. I'm not sure they asked for it  
7 specifically in that manner. They certainly asked  
8 for us to develop low tar cigarettes. We in  
9 product development probably attempted to do it  
10 through that method. I'm not sure that marketing  
11 ever asked for enriched nicotine, per se.

12 Q. You remember Lorillard working with MCA  
13 Graham Advertising?

14 A. Yes.

15 Q. Developing their five-year plan?

16 A. I have some recollection.

17 Q. You participated in that process in the  
18 late 1970s, correct?

19 A. I'm sure I did, I have off and on over  
20 the years.

21 Q. Do you recall, let me see if I can get

1 the document for you. I got to find out what we  
2 marked it as. It is June 12, 1979.

3 I'll show you what we have marked as  
4 Plaintiff's Exhibit No. 73. Does that document  
5 refresh your recollection in any way, sir, with  
6 respect to your participation of a five-year plan  
7 involving MCA Graham Advertising?

8 A. May I take the time to read it?

9 Q. Absolutely. Take as much time as you  
10 need.

11 MR. LONG: This was produced in the  
12 Texas AG case?

13 MR. WARREN: I don't know.

14 MR. LONG: It says produced in Texas.  
15 If there is a protective order in Texas, you can  
16 use this in other cases if you have a protective  
17 order entered.

18 MR. WARREN: It didn't come from the  
19 Texas AG case. I'm not sure.

20 MR. LONG: It has confidential on it,  
21 and it has protective order, I want to know whether

1     you have a protective order that you can use it  
2     here.

3                     MR. WARREN: That came through --

4                     MR. LONG: The point is you may be  
5     violating an order in other case without a  
6     protective order here.

7                     MR. EDELL: That could be very bad.

8                     MR. LONG: We need to know where you got  
9     the document, before we start chatting about it.

10                    MR. EDELL: Why don't we take a short  
11    break. We'll talk about that. I don't know where  
12    that document came from. I will speak to my  
13    co-counsel.

14                    (Break.)

15                    Q.     Let's go back on the record. Dr. Jones,  
16    we are going to go on to another area and avoid  
17    these documents right now, because there are some  
18    outstanding issues that have to be resolved.  
19    Hopefully we will resolve them over the lunch  
20    break. If we don't, then we'll figure out  
21    something to do. Okay?

1           A.     Yes, sir.

2           Q.     Are you familiar with the fact that  
3     nicotine enters the blood and is rapidly  
4     distributed to the brain in smokers?

5           A.     I have a general familiarity. I believe  
6     that to be the case. Again, it is outside my area  
7     of expertise, but I believe that is the case.

8           Q.     Would you agree that nicotine is a  
9     powerful pharmacologic agent?

10          A.     I would certainly agree it is a  
11     pharmacologic agent, yes.

12          Q.     Would you agree that it is the  
13     predominant pharmacologic agent that reinforces  
14     cigarette smoking?

15          A.     That is again outside my area of  
16     expertise, but my personal belief is that that is  
17     probably the case.

18          Q.     Would you agree that nicotine acts on  
19     specific binding sites or receptors throughout the  
20     nervous system of the smoker?

21          A.     I don't have knowledge in that area.

1 Q. Who at Lorillard would have knowledge in  
2 that regard?

3 A. I would think Dr. Alex Spears. Probably  
4 Dr. Christopher Coggins, Dr. Dan Hecht.

5 Q. Do you know whether or not Lorillard has  
6 done any research with respect to the effect of  
7 nicotine on the smoker?

8 A. Not to my knowledge.

9 Q. Have there ever been proposals to  
10 conduct such studies?

11 A. I don't know.

12 Q. Has there ever been an attempt by  
13 Lorillard to determine why people smoke?

14 A. Not to my knowledge.

15 Q. Are you aware as to whether or not any  
16 of Lorillard's competitors have ever done research  
17 in that regard?

18 A. I'm not aware, no.

19 Q. You are not aware of the research that  
20 Philip Morris did in that regard?

21 A. I may have read something in the popular

1 press that referred to it, but I don't have any  
2 direct recollection of it.

3 Q. You don't try to keep up on the research  
4 that is being conducted, consumer research being  
5 conducted by your competitors?

6 A. Consumer research conducted by  
7 competitors is confidential. They wouldn't let me  
8 see it.

9 Q. Did you ever discuss the issue as to why  
10 smokers smoke with anyone at Lorillard?

11 A. I am sure I have.

12 Q. With Dr. Spears?

13 A. More likely colleagues in product  
14 development. I probably have had conversations  
15 over the years with Dr. Spears as well.

16 Q. Isn't that a critical issue with respect  
17 to product development as to, with respect to  
18 cigarettes, to try to determine why smokers smoke  
19 and why they keep smoking?

20 A. That is really not our focus in product  
21 development.

THE REALTIME REPORTING GROUP, INC.

82480695

1 Q. By what area of the company would that  
2 question be addressed?

3 A. I don't think it is relevant to what we  
4 do.

5 MR. EDELL: Not relevant. Okay.

6 MR. LONG: When you say "we"?

7 THE WITNESS: The company, Lorillard.

8 Q. Does Lorillard sell any product other  
9 than cigarettes?

10 A. No.

11 Q. It is your testimony that why people  
12 smoke cigarettes and continue to smoke cigarettes  
13 is not a relevant issue to Lorillard?

14 A. I am saying it is not an issue that we  
15 act on.

16 Q. What do you mean by "it is not an issue  
17 that you act on"?

18 A. I view my role in product development  
19 and our role is to maximize our market share among  
20 those who smoke.

21 Q. Would you agree that really in essence

THE REALTIME REPORTING GROUP, INC.

82480696



1 Lorillard is selling smoke and not cigarettes?

2 A. No.

3 Q. Who is Dr. Parmele, or is it Parmele?

4 A. Parmele.

5 Q. Who is that?

6 A. Retired researcher from Lorillard, I  
7 believe he retired when I joined the company or  
8 about that time.

9 Q. He was a researcher. Wasn't he the  
10 director of research?

11 A. He may have been, but he wasn't when I  
12 was with the company.

13 Q. You are not familiar with his position?

14 A. I have seen his name around, people  
15 referred to Dr. Parmele, but I didn't know.

16 Q. Have you attended meetings of CORESTA?

17 A. Yes.

18 Q. Can you tell us what CORESTA is?

19 A. It is an international body of tobacco  
20 scientists, people that are interested in tobacco,  
21 both agronomy and technology and smoke chemistry.

THE REALTIME REPORTING GROUP, INC.

82480697

1 Q. And you have attended those meetings?

2 A. Yes.

3 Q. When did you begin to attend meetings of  
4 CORESTA?

5 A. My best guess would be mid seventies.

6 Q. Who attended those meetings prior to  
7 your attending those meetings on behalf of  
8 Lorillard?

9 A. Usually more than one person is  
10 attending, to I did not replace someone  
11 necessarily.

12 Dr. Fred Schultz certainly went to  
13 CORESTA meetings, Dr. Alex Spears, Dr. Norman and  
14 Jimmy Bell that I mentioned earlier.

15 Q. When you come back from these meetings,  
16 would you, are you given materials that are handed  
17 out at those meetings?

18 A. Yes.

19 Q. What do those materials usually consist  
20 of?

21 MR. LONG: I object. Vague and

THE REALTIME REPORTING GROUP, INC.

82480698

1     ambiguous.

2           A.     Generally abstracts of the papers that  
3     were presented.  Sometimes reprints of the entire  
4     presentation.

5           Q.     What do you do with them?

6           A.     I generally send them to our library.

7           Q.     Are you familiar with the presentation  
8     that was made in October of 1972 by William Dunn?

9           A.     No, sir.

10          Q.     You know who William Dunn is, don't you?

11          A.     I know the name.  Don't know who he is.

12          Q.     Who would have been attending CORESTA  
13     meetings from Lorillard in 1972?

14          A.     I can speculate it would have been  
15     Dr. Spears and Dr. Schultz.

16          Q.     Do you agree with Dr. Dunn that the  
17     cigarette should not be conceived as a product, but  
18     as a package, and that the product is nicotine?

19          A.     No.  I don't think to.

20          Q.     Why do you disagree with that?

21          A.     People smoke for a variety of reasons.

THE REALTIME REPORTING GROUP, INC.

82480699

1 Again, we are outside my area of expertise.

2 Q. I thought your area of expertise was  
3 design; is that correct? What is your area of  
4 expertise?

5 A. I think product design.

6 Q. And what do you mean by "product  
7 design"?

8 A. Blending. Filtration.

9 Q. What do you mean by blending?

10 A. The use of various tobacco types.

11 Q. Okay.

12 A. Which when blended together result in an  
13 enjoyable, pleasurable cigarette.

14 Q. What else, blending --

15 A. To a lesser extent flavoring, to a  
16 lesser extent filter development.

17 Q. Additives come in the flavoring aspect  
18 of this?

19 A. Yes.

20 Q. Any other aspect?

21 A. Some knowledge of manufacturing,

THE REALTIME REPORTING GROUP, INC.

82480700

1 processing.

2 Q. Filters, do you design the filters?

3 A. Not currently. I have worked in that  
4 area a little bit in the past.

5 Q. When did you work in the design of  
6 filters?

7 A. It was never a major responsibility, but  
8 I have had ideas for filters that we used.

9 Q. Have you ever submitted a patent  
10 application for a filter?

11 A. No.

12 Q. You are an expert in filters?

13 A. I wouldn't say I'm an expert, no.

14 Q. Are you an expert in flavoring?

15 A. Not saying I'm an expert.

16 Q. Are you an expert in blending?

17 A. I think I was at one time. I probably  
18 am not any longer.

19 Q. What is your current area of expertise?

20 A. I am a manager. I have a group of  
21 people that I have to manage. More of an

THE REALTIME REPORTING GROUP, INC.

82480701

1 administrative person today.

2 Q. What do you know firsthand about the  
3 design of Lorillard cigarettes prior to 1969?

4 A. Almost nothing. I joined the company in  
5 1968.

6 Q. What have you reviewed to give you the  
7 information that you needed in order to sign this  
8 affidavit that you did in this case, regarding the  
9 design of Lorillard cigarettes prior to 1969?

10 A. I reviewed some historical FTC reports,  
11 actual sales data.

12 Q. Historical FTC reports, what else?

13 A. Historical Maxwell data.

14 Q. Can you tell us what you are talking  
15 about?

16 A. The Maxwell report, it is generally --

17 Q. Generally available to the public?

18 A. Generally available to the public.

19 Q. What else?

20 A. I reviewed some of our specifications  
21 for filters.

THE REALTIME REPORTING GROUP, INC.

82480702

1 Q. Who gave you those specifications?  
2 A. I had a copy in my office.  
3 Q. I'm sorry?  
4 A. I had a copy in my office.  
5 Q. Which filters are you talking about?  
6 A. I looked at all the filters that were  
7 used, certainly, in all the filter constructions on  
8 the, or specifications for the lower tar  
9 cigarettes, that employed air dilution.  
10 Q. Does that include Kent?  
11 A. Yes.  
12 Q. Did you have as a part of those  
13 specifications the information with respect to the  
14 addition of asbestos to filters in Kent cigarettes?  
15 A. No.  
16 Q. You are not aware that they used  
17 asbestos in their filters during a certain period  
18 of time?  
19 A. I'm aware of those cases and publicity  
20 on it. It predates me. I did not look at those  
21 sort of documents for the purposes of this

THE REALTIME REPORTING GROUP, INC.

82480703

1     affidavit. I looked at more current materials.

2             Q.     Beginning at what point? You were aware  
3     that Lorillard did use asbestos in their filters  
4     during a certain period of time, correct?

5             A.     Yes. I have read reports about it.

6             Q.     During what period of time did they use  
7     asbestos?

8             A.     I don't know exactly.

9             Q.     What is your understanding?

10            A.     50's.

11            Q.     Did Lorillard test its filters before  
12     they used them insofar as you understand it?

13            A.     I have no knowledge of what they did in  
14     the fifties.

15            Q.     Do you know what they did in the  
16     sixties? Did they test the filters in the  
17     sixties?

18            A.     I don't understand the question about  
19     test. Certainly we had specifications and various  
20     parameters.

21            Q.     Before they sent them out the door to

THE REALTIME REPORTING GROUP, INC.

82480704



1     their consumers, didn't Lorillard have some kind of  
2     testing of these filters to determine whether or  
3     not the consumers were getting any potentially  
4     harmful substances from the filters?

5           A.     I have no knowledge of that kind of  
6     work.

7           Q.     Wasn't that part of the normal routine?

8           A.     I have no knowledge back then.

9           Q.     How about when you came with the  
10    company? Was that part of their normal routine, to  
11    conduct these?

12          A.     After moving to product development, it  
13    was not part of the normal routine, to my  
14    knowledge, which was around 1970.

15          Q.     What about the additives? Did they test  
16    the additives before they would tell the product to  
17    human beings, during the time period that you were  
18    there?

19          A.     Additives were relatively simple  
20    chemical compounds. I don't know what testing was  
21    done. Everything we used is tested to some degree

THE REALTIME REPORTING GROUP, INC.

82480705

1 by somebody and considered to be appropriate, but  
2 not familiar with any testing of the additives in  
3 the way you are asking the question.

4 Q. I'm asking you specifically whether or  
5 not Lorillard paid for or conducted itself research  
6 with respect to any of the additives they ever put  
7 in any of their product to determine whether or not  
8 those additives were potentially harmful to the  
9 consumers?

10 A. You are not restricting your question to  
11 filters now?

12 Q. Whole ball of wax, additives, filters?

13 A. Yes. We do tests, yes.

14 Q. When did you start testing the  
15 additives?

16 A. Again, this is outside my area. It is  
17 not a product development function, but I think  
18 probably in the early eighties.

19 Q. What department has as its function the  
20 testing of these additives?

21 A. It comes under the research department.

THE REALTIME REPORTING GROUP, INC.

82480706

1 Q. I thought that you were in charge of  
2 research and development?

3 A. No. Product development.

4 Q. Not research?

5 A. No.

6 Q. My misunderstanding. Who is in charge  
7 of research and development?

8 A. Well, there are two, research and  
9 development.

10 Q. Who is in charge of research?

11 A. Dr. Jack Reed is director of research.

12 Q. To he would know more than you about the  
13 testing of these additives?

14 A. Yes.

15 Q. But you would receive reports, wouldn't  
16 you?

17 MR. LONG: Let me object a second. What  
18 does this have to do with class certification? We  
19 have a case management order in this case, which  
20 limits discovery at this time to class  
21 certification issues. You are definitely talking

THE REALTIME REPORTING GROUP, INC.

82480707

1 about issues that go to merits.

2 MR. EDELL: No. I'm talking about what  
3 substances are found in cigarettes. You are trying  
4 to differentiate --

5 MR. LONG: You are talking about testing  
6 on substances.

7 MR. EDELL: Yes.

8 MR. LONG: You are talking about  
9 differences in cigarettes and you are going into  
10 did you test all this stuff and this and that, and  
11 I am saying we may be here a long time, this issue  
12 will come up again, but to the extent we can  
13 restrict the discovery here to class certification  
14 issues, we have a better chance of concluding at  
15 some reasonable time.

16 MR. EDELL: I agree with you. It is  
17 relevant to the discovery of documents that may or  
18 may not substantiate his position that there is a  
19 significant difference with respect to the brands  
20 that have been manufactured by Lorillard over the  
21 years. Quite frankly, I don't think for purposes

THE REALTIME REPORTING GROUP, INC.

82480708

1 of class certification there is such a  
2 differentiation. If they have conducted research  
3 to see whether or not any of these particular  
4 brands are more harmful than the regular  
5 cigarettes, I'm entitled to find that information  
6 out.

7 MR. LONG: At some point. I'll let you  
8 go ahead. I'm not going to instruct him right  
9 now. You tend to take the curves to where there  
10 are more merit issues than class certification. Go  
11 ahead.

12 Q. Research regarding additives?

13 A. I mentioned that Dr. Jack Reed is  
14 director of research.

15 Q. Would you receive the results?

16 A. We both report to a VP of research.

17 Q. Would you get copies of the work that he  
18 performs testing these various additives?

19 A. He doesn't perform it directly. People  
20 under him do, and generally, I would not get  
21 copies.

THE REALTIME REPORTING GROUP, INC.

82480709

1 Q. With respect to the issue of your area  
2 of expertise, you say that you were an expert in  
3 the area of blending, correct?

4 A. I think I was at one time.

5 Q. And blending encompasses what?

6 A. Putting together the different types of  
7 tobacco which results in a pleasing taste when they  
8 are blended.

9 Q. It doesn't involve adding anything at  
10 that juncture, correct?

11 A. Blending, per se, does not.

12 Q. No foreign substances?

13 A. Not in our terminology, that's not  
14 blending. That is flavoring.

15 Q. Did you conduct any testing to see  
16 whether or not there were any, there was any  
17 residual insecticides, pesticides in tobacco or the  
18 tobacco blends you used?

19 A. We do testing on a routine basis or have  
20 it, we don't do it in-house, but we have some  
21 conducted.

THE REALTIME REPORTING GROUP, INC.

82480710

1 Q. Are there any cigarettes that have ever  
2 been produced by Lorillard that have not been found  
3 to contain residue of insecticides or pesticides?

4 A. Repeat that, please.

5 Q. Have there ever been any cigarettes that  
6 have been manufactured by Lorillard that don't  
7 contain some residual amount of insecticide or  
8 pesticide?

9 A. This is outside my area of expertise,  
10 but I doubt it.

11 Q. They would all have some residual; is  
12 that correct?

13 A. Yes. Most agricultural products do,  
14 tomatoes, grapes, anything.

15 Q. The answer is yes?

16 A. To the best of my knowledge.

17 Q. To we are clear, I'm not concerned about  
18 grapes or any other products, I'm talking about  
19 cigarettes, all the cigarettes manufactured --

20 A. I understand, my knowledge is about as  
21 great in the others, tomato or tobacco, I am just

THE REALTIME REPORTING GROUP, INC.

82480711

1 generally aware there are pesticide residues.

2 Q. It is generally your understanding that  
3 there is always residual insecticide or pesticide  
4 found in all of Lorillard's product, correct?

5 A. Yes.

6 Q. Are any of those residual insecticides  
7 or pesticides known or suspected carcinogens?

8 MR. LONG: Here we go again. When you  
9 are talking about carcinogens, are you talking  
10 about shown to be a carcinogen in animals or  
11 humans?

12 Q. Are there any known carcinogens in  
13 cigarette smoke that cause cancer in human beings?

14 A. I have no idea.

15 Q. Beyond your expertise?

16 A. I don't know.

17 Q. You don't know?

18 A. I do not know.

19 Q. You never reviewed any research or  
20 documents at Lorillard that related to the issue of  
21 any composition of any element in the composition

THE REALTIME REPORTING GROUP, INC.

82480712



1 of cigarette smoke that caused cancer in human  
2 beings?

3 A. I certainly have read documents that  
4 related to having identified compounds that were  
5 considered to be harmful in some manner.

6 Q. I'm not talking about harmful in some  
7 manner, I'm talking about carcinogens.

8 A. Specifically, I don't know. I think  
9 some of the compounds we talked about earlier like  
10 polynuclear aromatic hydrocarbons are considered to  
11 be carcinogens. If they are, they certainly appear  
12 in smoke.

13 Q. Are there any carcinogens that we  
14 discussed earlier today, that are not considered to  
15 be carcinogens in human beings?

16 A. I don't have expertise in this area.  
17 I'm a chemist, I'm not a toxicologist or whoever  
18 does this. I used to be a chemist.

19 Q. You don't keep up in your area of  
20 expertise in chemistry; is that correct?

21 A. Not diligently, no.

THE REALTIME REPORTING GROUP, INC.

82480713

1 Q. You would consider yourself to be  
2 currently an expert in that area?

3 A. In chemistry?

4 Q. Yes. No, you are not an expert?

5 A. No. I am not an expert.

6 Q. What is it in cigarette smoke, if you  
7 know, that contributes to the development of cancer  
8 in human beings?

9 A. This is outside my area of expertise, I  
10 don't know.

11 Q. You don't know whether or not one  
12 Lorillard cigarette might have that or might not  
13 have that; is that right?

14 A. I don't know that there is a cause and  
15 effect, I just don't know.

16 Q. It is your testimony that you don't  
17 believe that cigarette smoking causes cancer in  
18 human beings?

19 A. Certainly my testimony that I don't know  
20 for certainty.

21 Q. I'm sorry?

THE REALTIME REPORTING GROUP, INC.

82480714

1           A.     It is my testimony I don't know with  
2     certainty. I certainly am aware that smokers are  
3     more likely to contract some diseases than  
4     nonsmokers, based on epidemiology and other things  
5     I have read about.

6           Q.     Is it your understanding that it is more  
7     likely than not that cigarette smoking causes  
8     cancer in human beings?

9           A.     The way I phrased it is my  
10    understanding, smokers are more likely to have some  
11    problems than nonsmokers.

12          Q.     I understand what you are saying. You  
13    are saying there may be some other thing peculiar  
14    about smokers?

15          A.     I'm saying I'm not a medical doctor.

16          Q.     I'm asking you what your understanding  
17    is as to whether or not there is anything in  
18    cigarette smoke that contributes to the development  
19    of lung cancer in human beings?

20          A.     I'm telling you I don't know.

21          Q.     Are you aware as to whether or not there

THE REALTIME REPORTING GROUP, INC.

82480715

1 is anything in cigarette smoke that contributes to  
2 the development of heart disease in human beings?

3 A. Only from the standpoint of having read  
4 articles that say nicotine and other components of  
5 smoke correlate with heart disease, to, again,  
6 epidemiological studies, that sort of thing,  
7 associations.

8 Q. Is there any difference in any of the  
9 cigarettes manufactured by Lorillard over all these  
10 years, insofar as their contributing or causing  
11 heart disease in smokers?

12 A. I don't know that they cause heart  
13 disease. Our cigarettes have certainly varied over  
14 the years.

15 Q. Do you know what the ingredient is, the  
16 item is, in the smoke particulate phase or the gas  
17 phase of cigarette smoke that causes heart disease  
18 or contributes to heart disease?

19 A. I don't know if cigarette smoking causes  
20 any of these diseases. I can't answer the  
21 question.

THE REALTIME REPORTING GROUP, INC.

82480716

1           Q.     To you don't know whether or not, more  
2     likely than not, cigarette smoking contributes to  
3     the development of heart disease; is that right?  
4     Not to a one hundred degree certainty?

5           A.     I think cigarette smokers are more  
6     likely to have heart problems. The question is  
7     outside my area of expertise.

8           Q.     The question is -- if you don't feel  
9     like you can answer the question, that's another  
10    issue, Doctor. My question is much more narrow  
11    than whether or not cigarette smokers may have a  
12    higher incidence of heart disease. The question is  
13    whether or not you know -- let me rephrase the  
14    question.

15                   Whether or not it is your opinion that  
16    more likely than not there is something in  
17    cigarette smoke that contributes to the development  
18    of heart disease in human beings?

19           A.     You first asked me if I knew, and then  
20    you changed the sentence and asked if it were my  
21    opinion.

1 Q. That's my job.

2 A. Give me one of the questions.

3 (The record was read by the reporter.)

4 Q. Dr. Jones, the answer?

5 A. My answer is that I don't know, in my  
6 opinion, but it certainly could be. I think  
7 cigarette smoking can be a risk factor.

8 Q. You don't have an opinion one way on the  
9 other. Just to we are clear, you have no opinion  
10 as to whether or not, more likely than not, there  
11 is something in cigarette smoke that contributes to  
12 the development of heart disease in human beings  
13 who smoke cigarettes?

14 A. I have certainly read that some of the  
15 components of cigarette smoke are considered to be  
16 related to causation of heart disease.

17 Q. What are those components?

18 A. Carbon monoxide for one.

19 Q. We have already established that carbon  
20 monoxide would be found in any cigarette ever  
21 manufactured by Lorillard, correct?

THE REALTIME REPORTING GROUP, INC.

82480718

1           A.     Yes.

2           Q.     What else?

3           A.     I'm not sure I would assume nicotine.

4           Q.     I'm sorry?

5           A.     I have read reports that nicotine is

6 associated with an increase in heart disease.

7           Q.     You are aware that nicotine is dangerous

8 to people who have preexisting heart disease,

9 correct?

10          A.     Not particularly, no, I'm not.

11          Q.     You are not aware that Dr. Spears

12 stopped smoking, because his doctor advised him to

13 do that, because he had arrhythmias?

14          A.     I'm aware that he stopped smoking.

15          Q.     You weren't aware that the reason he

16 stopped smoking was because his doctor told him to

17 stop smoking because he had arrhythmias, and

18 nicotine could be dangerous in people who had

19 arrhythmias?

20          A.     That's not my recollection. He

21 occasionally smokes. I remember when he stopped

1 smoking.

2 Q. You didn't review his deposition  
3 transcript taken in any matters?

4 A. No.

5 Q. Have you discussed the issue with him?

6 A. His stopping smoking?

7 Q. Yes.

8 A. Yes.

9 Q. He didn't tell you he stopped as a  
10 result of doctor's orders?

11 A. Best of my knowledge, he told me he was  
12 in the hospital for five days, and he hadn't  
13 smoked, and it was no problem when he got out, to  
14 he didn't start smoking again on a regular basis.

15 Q. I want to make sure. He didn't tell you  
16 that the reason he stopped smoking was because his  
17 doctor advised him to stop smoking?

18 A. He never told me that, to my  
19 recollection. That was 20 years ago.

20 Q. Are you aware as to whether or not, in  
21 fact, nicotine is dangerous for people who have



1 arrhythmias?

2 A. That is outside my area of expertise.

3 Q. Do you have an opinion as to what it is  
4 in cigarette smoke that contributes to the  
5 development of obstructive lung disease in human  
6 beings?

7 A. This is an area I don't know anything  
8 about. I don't know.

9 Q. Doctor, you were involved for almost a  
10 decade in marketing research, correct?

11 A. Yes.

12 Q. And marketing research means what?

13 A. Consumer research and sales analysis,  
14 would be the two primary functions of the  
15 department.

16 Q. To 1983 to 1992, you were the director  
17 of marketing research, correct?

18 A. Yes, sir.

19 Q. What types of studies were being  
20 performed in the area of marketing research?

21 A. Sales analysis, tracking studies, tested

82480721

THE REALTIME REPORTING GROUP, INC.

1 advertising.

2 Q. Focus groups?

3 A. Certainly focus groups.

4 Q. What else?

5 A. That pretty much covers it.

6 Investigation of new products, new advertising  
7 campaigns, a rather large study, a tracking study,  
8 that gave us information in terms of brand shares  
9 and demographics. Audits of new brand performance  
10 and test audit and other sales activities.

11 Q. Did you do that to the exclusion of any  
12 other work for Lorillard? You weren't involved in  
13 product development, other than in marketing, is  
14 that correct, during that decade, 1983 to 1992?

15 A. I had some involvement.

16 Q. What involvement did you have?

17 A. Number one, I knew the people, to I  
18 talked to them about new products, about testing of  
19 products.

20 Q. From a consumer acceptability  
21 perspective or a safety perspective or both?

THE REALTIME REPORTING GROUP, INC.

82480722

1           A.     Consumer acceptability perspective.

2           Q.     Were you aware that -- let me back up a  
3     little bit.   What is titration?

4           A.     I can tell you what it is chemically.  I  
5     am not sure I can tell you what it is, the avenue  
6     that I think you are taking.  It is used in  
7     sentences with titration and compensation.  I'm not  
8     sure I can define it in that sense.

9           Q.     You never saw the word used in Lorillard  
10    documents or heard your colleagues talking about  
11    titration with respect to products manufactured and  
12    sold by Lorillard?

13          A.     I don't believe I have.

14          Q.     There were no discussions or you never  
15    saw any documents that related to the fact that  
16    people who were smoking lower tar and nicotine  
17    cigarettes, in fact, smoke more cigarettes?

18          A.     I don't believe that to be the case.  I  
19    think that gets to what I call compensation.  I  
20    don't think that differs significantly from other  
21    smokers to other smokers.

1           Q.     Let me back up a little bit. You did  
2 either discuss that issue or see documents that  
3 related to that issue in your capacity as an  
4 employee of Lorillard?

5           A.     When I was director of marketing  
6 research, we did our big surveys, we asked people  
7 how many cigarettes they smoked per day. To my  
8 conclusion was based on that. It was not a  
9 significant difference in the claimed smoking per  
10 day among the ultra-light smokers versus the  
11 full-flavored smokers, perhaps one or two  
12 cigarettes per day.

13          Q.     To I understand it, the results of your  
14 study reflected the fact that they did smoke more  
15 cigarettes.

16                 MR. LONG: I object. That's a  
17 mischaracterization of what he said.

18          Q.     Did they, didn't they, whether it be  
19 one, two, three, four, ten, did the people smoking  
20 lower tar and nicotine cigarettes consume more  
21 cigarettes than those smoking the higher tar and

1 nicotine cigarettes?

2 A. I believe I said we didn't see a  
3 significant difference, but they claimed it might  
4 have been as much as two cigarettes a day, probably  
5 less.

6 Q. Who claimed?

7 A. The smoker on questioning.

8 Q. To the smokers were telling you they  
9 were smoking more; is that right?

10 A. The smokers were answering the question  
11 how many cigarettes do you smoke a day.

12 Q. And the people smoking the lower tar and  
13 nicotine cigarettes were saying they were smoking  
14 more cigarettes?

15 A. I don't think it was significantly  
16 different, but I remember the number, it was about  
17 one cigarette more per day.

18 Q. Did you make any determination as to  
19 whether or not there was a difference in the way  
20 they were smoking cigarettes?

21 A. No.

THE REALTIME REPORTING GROUP, INC.

82480725

1 Q. Whether they breathed in more deeply  
2 than people who were smoking higher tar and  
3 nicotine cigarettes?

4 A. No.

5 Q. You never explored that issue?

6 A. No. I'm aware of the issue, because of  
7 the recent things in perhaps changing the  
8 methodology on the smoking machines. We never  
9 studied the issues with consumers, to my knowledge.

10 Q. Did you ever note that there was a  
11 difference in the way in the low tar and nicotine  
12 smokers smoked versus higher tar and nicotine  
13 smokers?

14 A. It is my personal belief that they don't  
15 differ.

16 Q. They smoke the same?

17 A. It is my personal belief.

18 Q. Do you have a professional belief?

19 A. I have never done a quantitative study.  
20 I am basing this on observation and experience.

21 Q. To as far as you know, or as far as you

1 are concerned, there is no difference; is that  
2 correct?

3 A. That's correct in general. I am  
4 certainly aware of reports that some people cover  
5 the holes. I think that is a tiny, tiny fraction  
6 of low-tar smokers.

7 Q. When you say "people cover the holes"  
8 you are talking about people who are covering the  
9 holes in the cigarette paper or filter?

10 A. The filter, yes.

11 Q. In order to get more smoke?

12 A. Yes.

13 Q. Is that correct?

14 A. Yes.

15 Q. That was an alleged problem with the  
16 smoking machines that were being used by the FTC,  
17 correct?

18 A. I don't think to, I think it was an  
19 alleged problem with one particular brand at one  
20 time.

21 Q. I thought there was an issue as to

1     whether or not the machines used by the FTC  
2     simulated the way people really smoked.

3           A.     I don't think they are intended to  
4     simulate the way people really smoke.  People smoke  
5     in a variety of ways.  The machines are meant to be  
6     a standard.

7           Q.     Did you ever see any studies that  
8     suggested that the individual smokers smoked in  
9     order to achieve a certain level of nicotine  
10    intake?

11          A.     I don't believe I have ever seen a study  
12    in that regard.  I have been around, I have heard  
13    discussions in that area.

14          Q.     When you say "discussions" within  
15    Lorillard?

16          A.     Yes.

17          Q.     What was your understanding of those  
18    discussions?

19          A.     Some people were of the opinion that  
20    people smoked to obtain a certain level of  
21    nicotine, with which they were comfortable, and



1 that was related to how much they smoked per day.

2 Q. Were any studies ever conducted by  
3 Lorillard in that regard?

4 A. Not to my knowledge.

5 Q. Marketing didn't do any research in that  
6 regard?

7 A. No.

8 Q. Were there any type of marketing  
9 research that was specifically avoided by  
10 Lorillard?

11 A. Yes.

12 Q. What type of marketing research was at  
13 Lorillard, other than selling to minors?

14 A. Selling to minors was the first thing.  
15 We didn't talk to minors.

16 Q. I would qualify that other than selling  
17 to minors?

18 A. Or talking to minors.

19 Q. Or talking to minors?

20 A. It was also our policy not to interview  
21 nonsmokers on the subject of smoking I think the

1 major thing was the minors, as a policy we did not  
2 talk to underage people, whether or not they  
3 smoked.

4 Q. And when you say "minors," talking about  
5 people younger than 21?

6 A. Talking about younger than 18 at that  
7 time.

8 Q. Any other type of marketing research  
9 that was specifically avoided by Lorillard?

10 MR. LONG: I object, vague and  
11 ambiguous.

12 MR. EDELL: You can answer.

13 MR. LONG: If can you understand it.

14 A. None that I am aware of. If you want to  
15 ask me some for examples, I will try to answer.

16 Q. I don't know all the marketing research  
17 that was done, to I don't know how to ask that  
18 question any more specifically, Doctor, you were  
19 there for 25 years.

20 A. I was there for eight and a half in  
21 marketing research.

THE REALTIME REPORTING GROUP, INC.

82480730

1 Q. Marketing research you were there from  
2 1982 to 1993?

3 A. I think it was more like '83 to '92,  
4 eight years.

5 Q. Eight and a half years. During those  
6 eight and a half years you were in charge of  
7 marketing research, was there any other marketing  
8 research avoided by Lorillard, other than that  
9 which you have already described?

10 A. I don't recall having avoided anything.  
11 We got requests from different groups to study  
12 things. We usually did it.

13 Q. Doctor, was it your area of expertise  
14 to --

15 A. I need to go back and answer further  
16 that last question. We generally, I just thought  
17 of it, did not ask questions concerning smoking and  
18 health.

19 Q. Why?

20 A. When we were surveying people.

21 Q. Why?

THE REALTIME REPORTING GROUP, INC.

82480731

1           A.     I don't know. I know we did not do it.

2           Q.     Where did you get those instructions?

3           A.     I just remember it, that we didn't do  
4 it. I'm not sure that anybody specifically asked  
5 for it. I just remember conversations, when I took  
6 over the department, that that was an area we never  
7 studied and had no interest in.

8           Q.     You didn't want to know what smokers  
9 knew or didn't know about the health hazards of  
10 smoking, is that it?

11          A.     I just tried to completely answer the  
12 question, and the thought came to me.

13          Q.     Now I'm asking you a question about the  
14 statement.

15          A.     I told you we didn't do it when we came  
16 there, we didn't do it under my reign and I was  
17 never asked to do it.

18          Q.     I'm asking you: While you were director  
19 of marketing at Lorillard, did you have any  
20 interest in making a determination as to what  
21 people knew or understood about the potential

THE REALTIME REPORTING GROUP, INC.

82480732

1 health hazards of smoking?

2 A. I am sure I had some interest. We  
3 didn't study it. There would be unelicited  
4 responses in focus groups probably.

5 Q. Was that an issue of interest to  
6 Lorillard?

7 A. I don't think to.

8 Q. It wasn't an interest at Lorillard to  
9 make a determination as to what the consumers knew  
10 or didn't know about the potential health hazards  
11 of their product; that is your statement?

12 A. Not to my knowledge. I remember one  
13 question that was asked in tracking studies that  
14 tangentially relates to that, and it was a  
15 question, we would ask people if you could have  
16 your choice of one or two things, would you prefer  
17 to have your cigarette reduced in tar and nicotine  
18 or would you prefer to have it reduced in price.

19 Q. The answer was price?

20 A. Generally.

21 Q. Doctor, do you have any expertise with

THE REALTIME REPORTING GROUP, INC.

82480733

1     respect to the literature regarding the physiology  
2     and psychology of smoking?

3           A.     I once did a literature review. I would  
4     say I don't have expertise 15 or 18 years ago, I  
5     did a review of literature.

6           Q.     In 1979, 1980, you did that review?

7           A.     I think that's about right.

8           Q.     Did you bring that review with you?

9           A.     No, sir.

10          Q.     Why?

11          A.     I didn't know it is relevant. It is not  
12     mentioned, anything like that in my affidavit, to  
13     my knowledge.

14          Q.     What were the results of your review?

15          A.     There were no results. It was a review  
16     generally of what was in the literature.

17          Q.     When we were talking about the  
18     physiological effects of smoking, we are talking  
19     about what?

20          A.     Basically, I think the effects of  
21     nicotine, based on that paper.

1 Q. So in 1979, 1980, you surveyed the world  
2 literature on the effects of nicotine on smokers?

3 A. I don't know how wide ranging it was. I  
4 suppose I did. The library did the search for me,  
5 I remember articles from England, to I guess it is  
6 fair to say I reviewed the world literature.

7 Q. Why did they ask you to do it, if you  
8 had no expertise?

9 A. I'm not sure. It may have been  
10 something I was interested in at the time and  
11 decided to do it on my own. I'm not sure I was  
12 asked to do it. I don't really remember.

13 Q. Who is Richard E. Smith?

14 A. He was a group brand director at one  
15 time and then became, I think his title was  
16 vice-president marketing/development.

17 Q. 1980, do you know what his position was?

18 A. Either a group brand director or had  
19 been made vice-president at that time.

20 Q. You don't recall that you were given the  
21 specific assignment to conduct that research, as

THE REALTIME REPORTING GROUP, INC.

82480735

1   opposed to your having some interest in it, and  
2   deciding to --

3           A.     I don't recall. It wouldn't have been  
4   unlikely for him to ask me to take a look at it.

5           Q.     Why would he ask you?

6           A.     I was one of the few people he knew and  
7   worked with on a regular basis.

8           Q.     This was in conjunction with a five-year  
9   plan for Lorillard, they were relying upon you to  
10  conduct this research, correct?

11          A.     I honestly don't remember if it relates  
12  to the five-year plan. It is not mentioned in this  
13  one you handed to me. I don't know.

14          Q.     Would you be surprised to learn that  
15  they were relying upon you to conduct this research  
16  with respect to the five-year plan for Lorillard?

17                   MR. LONG: Object to the form of the  
18  question.

19                   MR. EDELL: Why? What is wrong with  
20  it?

21                   MR. LONG: Would you be surprised?



1 MR. EDELL: Yes. Would you be  
2 surprised? Do we have an answer to that question?

3 A. You are waiting for me?

4 Q. Yes.

5 A. No. I would not be surprised, but it  
6 certainly wouldn't have a lot to do with the  
7 five-year plan.

8 Q. Sorry?

9 A. That review paper wouldn't have much to  
10 do with our future marketing efforts for the  
11 five-year plan. It wouldn't have been a key part  
12 of it. If it were, I would have a better memory of  
13 it.

14 Q. You were part of the group that was  
15 putting together materials for five-year plan,  
16 weren't you?

17 A. Yes.

18 Q. Did you have any other assignment with  
19 respect to the five-year plan other than  
20 summarizing relevant information on physiology and  
21 psychology of smoking?

THE REALTIME REPORTING GROUP, INC.

82480737

1                   MR. LONG: I object to the form of the  
2 question. He testified he can't recall whether  
3 that was an assignment in the five-year plan or  
4 not.

5           Q.     Let me rephrase it then.

6                   Do you recall whether or not you had any  
7 responsibility other than summarizing the world  
8 literature with respect to the physiology and  
9 psychology of smoking?

10          A.     I'm sure that I did.

11          Q.     What was the other area of  
12 responsibility?

13                   MR. LONG: I object again. You keep  
14 saying, he testified that he didn't know whether  
15 that was part of five-year plan. You heard the  
16 testimony. You keep saying other than that  
17 responsibility did you have others? He hasn't  
18 testified that was his responsibility under the  
19 five-year plan, to your question assumes facts not  
20 in evidence. I want to get the objection on the  
21 record.

1           MR. EDELL: To there is an objection to  
2 the form of the question. Is that it?

3           MR. LONG: It is a misleading question,  
4 yes, assumes facts not in evidence.

5           MR. EDELL: Let's mark this for  
6 identification -- what number are we up to?

7                     (Whereupon, Plaintiff's Exhibit No.  
8 88, literature review memo, marked.)

9           Q. I will show you Plaintiff's Exhibit 88,  
10 which has not been stamped as confidential by  
11 Lorillard.

12                    Can you identify for us what P-88 is?

13           A. This is the memo you are referring to in  
14 which I reviewed the literature on the behavior and  
15 pharmacological factors in smoking in 1980.

16           Q. You prepared that?

17           A. Yes.

18           Q. Does that refresh your recollection as  
19 to whether or not that had anything to do with the  
20 five-year plan?

21           A. Yes. According to the cover letter,

THE REALTIME REPORTING GROUP, INC.

82480739

1 that is exactly why it was done.

2 Q. It does refresh your recollection that  
3 it was in conjunction?

4 A. Not particularly, because it was never a  
5 big deal or particularly actionable.

6 Q. How many pages is that document?

7 A. Maybe 15, 18. 16 plus the cover.

8 Q. May I see it, please? You did prepare  
9 this document; is that correct?

10 A. Yes, sir.

11 Q. That is your --

12 A. Yes, sir.

13 Q. Are those your initials on the first  
14 page?

15 A. Yes, sir.

16 Q. Who are the people to whom you are  
17 sending this?

18 A. They were the people that were on the  
19 five-year planning committee.

20 Q. And why is it, why is there typed across  
21 the top here "confidential"?

THE REALTIME REPORTING GROUP, INC.

82480740

1           A.     Five-year plan, we are working on what  
2     we call a five-year marketing plan, to all of that  
3     would be confidential.

4           Q.     You recall writing in 1990 that  
5     undoubtedly nicotine serves as the primary role in  
6     cigarette smoking?

7           MR. LONG:   You want to let him have a  
8     copy of the document when you are reading from it,  
9     to we can check it?

10          MR. EDELL:   Take a look at that.

11          A.     I don't have a specific recollection of  
12     having said that, but if it is typed here, I'm sure  
13     I did.

14          Q.     You have no reason to believe that that  
15     isn't the case?

16          MR. LONG:   I object.   There is a  
17     difference between what he believes and what he  
18     wrote.   It is a literature review.   If you want to  
19     ask him about his literature review, that is one  
20     thing.   You are assuming that everything he writes  
21     in there is his opinion, rather what it is, which

THE REALTIME REPORTING GROUP, INC.

82480741

1 is a literature review.

2 Q. You used the word "undoubtedly", didn't  
3 you?

4 A. Yes. Followed by a reference to  
5 somebody named Nelson that reports that nicotine  
6 has been described as a psychoactive agent.

7 Q. After undoubtedly, what does it say?

8 A. Undoubtedly, nicotine serves a primary  
9 role in cigarette smoking.

10 Q. There is a citation after that?

11 A. No. The beginning of the next sentence  
12 there is.

13 Q. To whose words are they, that you just  
14 read into the record?

15 A. They could have been my personal opinion  
16 or my opinion based on having read all that  
17 literature that was a conclusion from the  
18 literature. Could have been either one.

19 Q. You have no idea why they asked to you  
20 do this, is that correct? You have no idea what  
21 this related to in the context of the five-year

1 plan?

2 A. I'm not certain that it was not my idea  
3 to do this.

4 Q. I'm asking you what you recall?

5 A. It may have been my area of interest  
6 that I decided to do it, as opposed to having it  
7 requested. I just don't know, I don't recall.  
8 There was a time in my career, when I had extra  
9 time on my hands.

10 Q. To it is your recollection that you may  
11 have just been sitting around doing nothing and you  
12 said I'm going to do research on the physiology and  
13 the psychology of smoking?

14 A. Not precisely, I rarely would say I am  
15 sitting around doing nothing.

16 Q. I'm light, guys, I have some time, why  
17 don't I do some research on the physiology and  
18 psychology of smoking?

19 A. Had I decided to do it, I wouldn't have  
20 had to tell them, I would have just done it, if I  
21 thought it was worthwhile.

THE REALTIME REPORTING GROUP, INC.

82480743

1           Q.     You don't know as you sit here and  
2     review that, whether or not that was just an  
3     academic exercise that you were doing in your spare  
4     time or whether or not that was something that was  
5     integrally related with the five-year plan?

6           A.     I certainly thought it would be of  
7     interest to the people working on the five-year  
8     plan.

9           Q.     Why?

10          A.     Because it related to smoking.

11          Q.     It related to why people smoked and kept  
12     smoking?

13          A.     I suspect there are references in that  
14     regard in here, he talks about behavioral factors.

15          Q.     Isn't that the real issue that is being  
16     addressed in that paper?

17          A.     Why people smoke?

18          Q.     And why they keep smoking.

19          A.     It is certainly one of the issues  
20     addressed in the paper.

21          Q.     And why was that important to the

THE REALTIME REPORTING GROUP, INC.

82480744



1 five-year plan?

2 A. I am not sure that that particular  
3 element was.

4 Q. What else is discussed in that paper as  
5 to, other than why people smoke and why people  
6 continue to smoke?

7 A. If I recall, there were statements in  
8 there that smokers, either smokers or nicotine had  
9 better motor skills and attention spans and it  
10 wasn't just as narrow as you proposed. Nicotine is  
11 an important part of cigarettes, to it was  
12 certainly important in 1979 to review it.

13 Q. Why was it an important part of  
14 cigarettes?

15 A. Why is nicotine an important part?

16 Q. Yes.

17 A. Based upon this, because of its, to some  
18 degree, its psychopharmacological factors or  
19 effects, I guess one would say.

20 Q. Was there any other agent, other than  
21 nicotine, that was found to have a profound effect

THE REALTIME REPORTING GROUP, INC.

82480745

1     upon why people smoke and continue to smoke, other  
2     than nicotine?

3             MR. LONG:   You mean in this paper?

4             MR. EDELL:   That he has ever become  
5     aware of.   Make it broad and we can narrow it  
6     down.

7             A.       I think nicotine is one of the important  
8     factors in smoking.   I stated that earlier.

9             Q.       Is it fair to say it is the most  
10    important factor from a pharmacological  
11    perspective?

12            A.       Pharmacology is outside my area of  
13    expertise.

14            Q.       That's why you were asked --

15            A.       But my personal belief is probably  
16    that's the case.

17            Q.       Isn't that your understanding from  
18    reviewing the world literature on the issue in  
19    1980?

20            A.       I don't remember everything I learned  
21    from this in 1980.

THE REALTIME REPORTING GROUP, INC.

82480746

1 Q. Take your time and look at it?

2 A. I'm not sure I can read it all. It is a  
3 poor copy.

4 Q. If there is summary you can't read, I'm  
5 sure we can get a copy from your counsel. We can  
6 get it faxed from you, I'm sure you guys in the  
7 spirit of cooperation want to provide the entire  
8 document?

9 A. Restate the question, if you would.

10 Q. Is it fair to say that it is the most  
11 important factor from a pharmacological  
12 perspective, that is nicotine, regarding the issue  
13 of why people smoke and continue to smoke?

14 MR. LONG: And I said, you mean in the  
15 paper?

16 MR. EDELL: Based upon his understanding  
17 of the world literature, either in the context of  
18 this paper or from any other understanding.

19 MR. LONG: To it is not limited to  
20 what's in this paper?

21 MR. EDELL: That's correct.

1 MR. LONG: No reason for him to be  
2 looking at the paper then?

3 MR. EDELL: Certainly is. It  
4 encompasses the paper.

5 MR. LONG: Objection.

6 MR. EDELL: You can answer.

7 A. The paper talks about areas other than  
8 nicotine.

9 Q. That wasn't my question as to what the  
10 paper referenced.

11 MR. LONG: That's the problem with your  
12 question

13 MR. EDELL: There is a specific question.

14 MR. LONG: What was the question?

15 Q. You said that nicotine was an important  
16 factor in people smoking, correct?

17 A. That's my personal belief.

18 Q. I'm asking you whether or not, in fact,  
19 it is not from a pharmacological perspective the  
20 primary factor?

21 A. I don't have expertise. I wouldn't be

THE REALTIME REPORTING GROUP, INC.

82480748

1 surprised if it does. It is outside my area of  
2 expertise.

3 Q. Did your paper come to any conclusions  
4 in that regard?

5 A. It came to a lot of conclusions, not all  
6 of which related to nicotine.

7 Q. I know that. That is why I said: Did  
8 you come to that conclusion -- did your paper come  
9 to that conclusion in any regard?

10 A. I would think it has to, from the  
11 paragraph you referenced earlier, undoubtedly  
12 nicotine serves a primary role in cigarette  
13 smoking.

14 Q. Do you have any reason to disbelieve  
15 that that is the fact?

16 A. No. I have no reason to disbelieve  
17 that.

18 Q. Do you have any reason to change your  
19 opinion as expressed in 1980 on that issue?

20 A. No. Again, we said I'm not sure if that  
21 was my opinion or what the literature said.

THE REALTIME REPORTING GROUP, INC.

82480749

1           Q.     Based upon your review of that, you  
2     don't know whether or not that is your opinion  
3     based upon the world literature?

4           MR. LONG: I object to this same  
5     question was asked five minutes ago.

6           MR. EDELL: Maybe it will refresh his  
7     recollection, now that he has reviewed more of the  
8     document.

9           MR. LONG: Give me a break.

10          A.     I agree that nicotine serves a primary  
11     role in cigarette smoking as stated here. That is  
12     also my personal belief.

13          Q.     Thank you. Did you ever publish the  
14     information contained in this paper?

15          A.     No, sir.

16          Q.     Did you ever convey the conclusions in  
17     this paper to your consumers, Lorillard's  
18     consumers?

19          A.     No.

20          Q.     Did this paper relate in any way to the  
21     fact that there is literature that suggested in

THE REALTIME REPORTING GROUP, INC.

82480750

1 1980, that nicotine causes a physiological  
2 dependence in the people who use cigarettes?

3 MR. LONG: Repeat that.

4 MR. EDELL: Did this paper relate in any  
5 way to the fact that there is literature that  
6 suggested in 1980 that nicotine causes a  
7 physiological dependence in the people who use  
8 cigarettes?

9 MR. LONG: Object to the form of the  
10 question. It is nonsensical. He has already  
11 testified that this is a review of published  
12 information. I mean that's what he has testified  
13 to. In that context, I don't think your question  
14 makes any sense.

15 MR. EDELL: Okay. He can still answer  
16 it. Won't be the first time.

17 MR. LONG: First time what?

18 MR. EDELL: I asked a nonsensical  
19 question.

20 MR. LONG: First time I have said to  
21 today.

1 MR. EDELL: Not intentionally.

2 MR. LONG: Of course.

3 MR. EDELL: Doctor?

4 A. If I understood the question, you are  
5 asking me if this paper and the findings in this  
6 paper related to the statement you made about  
7 nicotine around 1980?

8 Q. Yes.

9 A. To my knowledge, no. This was not  
10 widely distributed.

11 Q. Not widely distributed?

12 A. Not in R and D. Most of these people  
13 were in marketing.

14 Q. Let me see if I can rephrase the  
15 question. Did this paper relate in any way to the  
16 fact that there was literature in 1980 that  
17 suggested that people who smoked cigarettes became  
18 physiologically dependent upon the cigarettes?

19 A. Counselor, I'm sure there were papers  
20 well before 1980, in which people claimed that. I  
21 may well have referenced some in this document.

THE REALTIME REPORTING GROUP, INC.

82480752



1 Q. Okay. Did you have any reason from a  
2 professional perspective to disagree with that  
3 conclusion?

4 A. To the conclusion that nicotine and  
5 cigarettes does what?

6 Q. Causes some physiological dependence in  
7 people who smoke?

8 A. I think cigarettes are habit forming and  
9 nicotine contributes to that. To in that sense,  
10 yes.

11 Q. That wasn't my question.

12 A. You used the word "dependence"?

13 Q. Physiologically.

14 A. That is outside my area of expertise.

15 Q. All right. You were the one who did  
16 this review with respect to the physiology of  
17 cigarettes, correct?

18 A. Yes.

19 Q. Insofar as it pertains to smokers,  
20 right?

21 A. Yes.

THE REALTIME REPORTING GROUP, INC.

82480753

1 Q. As well as the psychology of smoking  
2 insofar as it pertains to smokers, correct?

3 A. As limited by these sources, yes.

4 Q. You didn't have the expertise to do this  
5 research; is that correct?

6 A. I certainly had the expertise to do the  
7 literature review, not to do the research that is  
8 reported in the paper, no.

9 Q. You had the expertise to interpret it,  
10 did you not?

11 A. I felt that I did, obviously.

12 Q. To did the people with whom you were  
13 working, did they not?

14 A. I think very little in this paper were  
15 my interpretations, I think the bulk of this paper  
16 said what was said in the literature. It was a  
17 condensation of various articles on the topics.

18 Q. Do you know whether or not any of your  
19 conclusions were used in the creation of the  
20 five-year plan?

21 MR. LONG: Object to the form of the

THE REALTIME REPORTING GROUP, INC.

82480754

1 question. You are saying his conclusions. He has  
2 already said he doesn't know that this simply  
3 doesn't state the conclusions of others.

4 MR. EDELL: You can answer the  
5 question.

6 A. I don't think anything related to this  
7 appeared in the five-year plan.

8 Q. Did any research that was conducted by  
9 Lorillard regarding how people viewed the potential  
10 health hazards of a particular brand relate to the  
11 five-year plan?

12 A. Restate that, please.

13 Q. Did any research conducted by Lorillard  
14 review how people viewed the potential health  
15 hazards of a particular brand relate to the  
16 five-year plan?

17 MR. LONG: Which five-year plan?

18 MR. EDELL: The one that you are talking  
19 about, the one you did the literature search for?

20 A. I think I stated earlier, I don't recall  
21 ever doing research in that area.

THE REALTIME REPORTING GROUP, INC.

82480755

1 Q. To the answer is?

2 A. The answer is we didn't conduct that  
3 type of research.

4 Q. Did you have others conduct it for you?

5 A. I don't know of any research in that  
6 vein being conducted.

7 When I say "we didn't conduct it" that  
8 would extend to our suppliers.

9 Q. It would extend to the people with whom  
10 you consulted on the five-year marketing plan?

11 A. Yes, but not one of these persons at the  
12 time was director of marketing and research. The  
13 other people were not in the research area and  
14 marketing.

15 MR. EDELL: Let's take a break for  
16 lunch.

17 (Discussion off the record.) (Lunch.)

18 Q. Dr. Jones, how would you define a light  
19 smoker?

20 MR. LONG: You mean a light smoker of  
21 cigarettes or a smoker of light cigarettes?

THE REALTIME REPORTING GROUP, INC.

82480756

1 MR. EDELL: A light smoker of  
2 cigarettes.

3 A. Fewer than ten cigarettes per day would  
4 be my personal opinion.

5 Q. How much?

6 A. Fewer than ten cigarettes per day.

7 Q. If there a definition you use from a  
8 marketing perspective?

9 A. That was the definition we used for  
10 marketing.

11 Q. I wanted to see if there was something  
12 as opposed to your professional experience. Let's  
13 keep these on the same track. I'm not asking  
14 necessarily for your personal opinion, but your  
15 opinion here as an expert and as someone who worked  
16 for 20 something years, 30 years, 20 something  
17 years, how many years, 30 years?

18 A. Just over 28.

19 MR. LONG: That's if you have a  
20 professional view.

21 MR. EDELL: That's correct.

THE REALTIME REPORTING GROUP, INC.

82480757

1           Q.     How would you characterize a moderate  
2 smoker?

3           A.     Between ten and twenty cigarettes per  
4 day.

5           Q.     And how would you characterize a heavy  
6 smoker?

7           A.     A pack and a half, two packs a day or  
8 more.

9           Q.     Why is it that people, from a marketing  
10 perspective, you keep people in those three  
11 categories?

12          A.     I'm not sure we did from a marketing  
13 perspective. We did not as a rule interview  
14 smokers who claimed to smoke fewer than ten  
15 cigarettes per day.

16          Q.     Why?

17          A.     We just didn't think they would be  
18 representative of the smoking population with their  
19 answers.

20          Q.     What would your definition as someone  
21 who is representative of the smoking population be?

THE REALTIME REPORTING GROUP, INC.

82480758

1           A.     Someone who claimed to smoke more than  
2     ten cigarettes per day.

3           Q.     Any particular length of time, more than  
4     a year, five months, more than ten months?

5           A.     I don't recall ever asking those  
6     particular questions.

7           Q.     To from a definitional perspective, it  
8     didn't make a difference how long they were smoking  
9     ten cigarettes or more a day to be representative  
10    of the smoking population?

11          A.     No, sir.

12          Q.     Before I forget, have any documents,  
13    have you brought with you any documents that are  
14    not subject to a confidential stamp?

15                 MR. LONG:   Yes.

16                 MR. EDELL:   May we see those documents?

17                 MR. LONG:   Sure.

18                 MR. EDELL:   Would you be adverse to our  
19    marking the documents that are confidential, to  
20    that we have some way of --

21                 MR. LONG:   We only have one document

THE REALTIME REPORTING GROUP, INC.

82480759

1 that is marked confidential and there were some  
2 numbers on there that we have taken off.

3 MR. GUSTAFSON: There is more than one.

4 MR. LONG: It tells you what he looked  
5 at and he can tell you why he looked at it.

6 Q. Doctor, who drafted the affidavit that  
7 you signed in this matter?

8 A. A draft was done by my attorneys.

9 Q. Who were your attorneys?

10 A. The gentlemen in this room.

11 Q. All of these gentlemen in this room?

12 A. Gary and Craig and James.

13 Q. Did it go through different drafts?

14 A. I believe there were two.

15 Q. Did you make any changes in the first  
16 draft?

17 A. Yes, sir.

18 Q. What changes were they? Here is  
19 Plaintiff's Exhibit 15 that is the affidavit that  
20 we were supplied.

21 A. I think did we not also supply the

THE REALTIME REPORTING GROUP, INC.

82480760



1 draft?

2 MR. LONG: Yes.

3 THE WITNESS: There are only a couple of  
4 places I need to refer to it to save us time.

5 Page two, top paragraph, which is a  
6 continuation of paragraph two.

7 Q. Yes.

8 A. Next to the last sentence" is a  
9 substantially different product than. " I have  
10 changed that to"from", and also in the last  
11 sentence, changed the word "than" to "from" in the  
12 final one.

13 Page three, paragraph six, capitalized  
14 nicotine in the two instances, the third sentence  
15 from the bottom of paragraph six, and page four,  
16 section on reconstituted tobacco at the top of the  
17 page, took out one sentence which appears in this  
18 first draft.

19 Q. What is that sentence?

20 A. That sentence read: "Plaintiffs claim  
21 that one of the methods used to manipulate in

THE REALTIME REPORTING GROUP, INC.

82480761

1     quotes nicotine levels in cigarettes is through the  
2     use of reconstituted tobacco."

3             Q.     You took that out? Question mark.

4             A.     I assume I did, because it is not in my  
5     final one. I may have discussed it with my  
6     attorneys.

7             Q.     How was the affidavit prepared? Did  
8     they meet with you first?

9             A.     Yes.

10            Q.     Did they interview you?

11            A.     Yes, sir.

12            Q.     Regarding just the issues that are  
13     contained in this document?

14            A.     I think that was the case. These were  
15     the topics we covered.

16            Q.     Then they drafted the affidavit, you  
17     made these changes that you just described and you  
18     signed it, correct?

19            A.     Yes, sir.

20            Q.     What was your understanding as to why  
21     you were asked to prepare this affidavit? Or to

THE REALTIME REPORTING GROUP, INC.

822480762

1 sign this affidavit?

2 A. That there was a case, and these were  
3 questions based upon my position in the company,  
4 that I was the logical one to generate a response  
5 to.

6 Q. You came to the conclusion that you were  
7 the logical person?

8 A. They did.

9 Q. They did?

10 A. Yes.

11 Q. Is there anyone at the company who knows  
12 more about the composition of the cigarettes  
13 manufactured over these many years by Lorillard  
14 other than you?

15 MR. LONG: You mean knows more than  
16 him?

17 Q. More than you. I'm sorry. Does anyone  
18 at Lorillard know more about the composition of the  
19 cigarettes manufactured and sold by Lorillard over  
20 these many years than you do?

21 A. Yes. I would think to, people that have

THE REALTIME REPORTING GROUP, INC.

82480763

1 a longer history.

2 Q. Can you give us the names of those  
3 individuals?

4 A. Off the top of my head, referring to the  
5 things I discussed in the affidavit, the technical  
6 parts of it.

7 Q. Referring to the composition of  
8 cigarettes manufactured by Lorillard over these  
9 many years?

10 A. Dr. Spears would certainly have a longer  
11 history than me. He predated me by ten years or  
12 to.

13 Q. Anyone else?

14 A. There are people in manufacturing that  
15 have been there longer, but they wouldn't have the  
16 understanding of the things I have addressed. They  
17 would certainly know more about manufacturing, per  
18 se.

19 Q. Talking about the composition of the  
20 cigarettes?

21 A. The compositioning includes blends and

1 things like that, to I mean they would have some  
2 awareness, but not in detail.

3 Q. I'm looking for the individuals you  
4 believe may have more knowledge than you concerning  
5 the composition of the cigarettes manufactured by  
6 Lorillard?

7 A. I would say it would be Dr. Spears and  
8 Dr. Vellow Norman, who have longer tenures in the  
9 industry than I have, and both have a technical  
10 background.

11 Q. Do you know why they were not chosen to  
12 act as experts in this case?

13 A. No. I do not know.

14 Q. You don't know whether or not it was  
15 because they had more exposure from a  
16 cross-examination perspective?

17 MR. LONG: Object. He answered your  
18 question. Here you go trying to refresh the  
19 recollection by rephrasing the question.

20 MR. EDELL: Well, it works.

21 MR. LONG: Not any more.

1 Q. Let's take a look at your evidence. Do  
2 you have it in front of you? P-15. Here is the  
3 original document, at least the original exhibit.

4 Let's take a look at the second  
5 paragraph. You didn't have personal knowledge of  
6 this example that you used in paragraph two, did  
7 you? You weren't even with the company during that  
8 time period?

9 A. I had knowledge.

10 Q. From the documents you reviewed?

11 A. Yes, from just being associated with the  
12 company for a long time, I know the history of some  
13 of the brands, some of the history of some of the  
14 brands.

15 Q. How did you know those, how did you  
16 learn that information?

17 A. Both from documents and from  
18 conversations with people in the company over time.

19 Q. Who, who?

20 A. Primarily to be responsive to paragraph  
21 two, it would be other chemists in product

1 development.

2 Q. Who are they?

3 A. You want names of people?

4 Q. Exactly.

5 A. People that were around in product  
6 development, in 1965, if we take that date, two  
7 people that come to mind were a gentleman named  
8 John Maghetti.

9 Q. Where is he today?

10 A. Retired.

11 Q. Where?

12 A. Greensboro, as far as I know. Howard  
13 Smith.

14 Q. Where is he?

15 A. He is retired, and lives in Greensboro,  
16 and Charlie Tucker, retired, Greensboro.

17 Q. Take a look at paragraph three. Where  
18 did you gain this information?

19 A. Which specific part are you referring  
20 to?

21 Q. The goal of Lorillard cigarette design

THE REALTIME REPORTING GROUP, INC.

82480767

1 efforts has been to satisfy consumer preference for  
2 the time period that you weren't involved in  
3 product development?

4 A. It is a basic understanding, I mean,  
5 anyone that is trying to produce a product wants  
6 the consumers to like it.

7 Q. This is just your general understanding  
8 of marketing of product period?

9 A. Yes.

10 Q. And then there is a statement in there:  
11 Over the years consumer preference for cigarettes  
12 have changed dramatically. For example."

13 How did you obtain that information?

14 A. Again, from conversations, from reading  
15 reports, from having lived through the history of  
16 some of the changes, from knowing that filters only  
17 became important in the fifties.

18 Q. How did you know that?

19 A. Anecdotally and I'm sure from reading  
20 some reports.

21 Q. Internal documents?

THE REALTIME REPORTING GROUP, INC.

82480768



1           A.     Yes.

2           Q.     Do you know --

3           A.     And external publicly available  
4 documents.

5           Q.     Why would it be that consumers, or what  
6 was your understanding as to why consumers in the  
7 fifties had a preference for filter cigarettes?

8           A.     I don't think in the fifties they did  
9 have a preference for filtered cigarettes.

10          Q.     Okay. When did they develop a  
11 preference for filter cigarettes?

12          A.     I think it probably started in the mid  
13 to late fifties and gained momentum over time.

14          Q.     What was it that changed consumer  
15 preference?

16          A.     I think in large part, it was in  
17 response to publicity about the alleged dangers of  
18 cigarette smoking.

19          Q.     People thought by using filter  
20 cigarettes they would be avoiding the potential  
21 hazards or reducing the potential hazards that they

THE REALTIME REPORTING GROUP, INC.

82480769

1 became aware of through public press or whatever?

2 A. I can't state what was in their mind,  
3 but I think it is reasonable that they felt they  
4 were reducing any risk that they had heard about,  
5 by reducing the tar and nicotine and the vehicle to  
6 do that was through filtration.

7 Q. You say you can't state what was in  
8 their mind. You are aware that research has been  
9 done by the marketing department and people they  
10 have hired on the outside, that is the marketing  
11 department of Lorillard, as to how people perceive  
12 their cigarettes, correct?

13 A. I had no knowledge of what people were  
14 thinking and doing in the fifties. I was a  
15 teenager.

16 Q. You don't know what it was about the  
17 filter cigarettes that were motivating people to  
18 change from unfiltered to filtered cigarettes.

19 A. As I previously stated to you, I think  
20 it was for reduction of tar and nicotine.

21 Q. What was the motivating force to reduce

THE REALTIME REPORTING GROUP, INC.

82480770

1 the tar and nicotine?

2 A. My opinion would be it was reports on  
3 the hazards of smoking or that cigarettes with  
4 lower tar and nicotine were preferable to  
5 cigarettes with higher tar and nicotine.

6 Q. From a safety perspective, from a health  
7 perspective?

8 A. In broad terms, from a health  
9 perspective.

10 Q. And Lorillard addressed its marketing  
11 plan to those health concerns; did they not?

12 A. Lorillard addressed their marketing  
13 plans to their estimates of what consumer  
14 preference would be.

15 Q. Getting back to the question, that  
16 related to health concerns, correct?

17 A. That related to a demand for lower tar  
18 and nicotine cigarettes or for filter cigarettes.

19 Q. Which related to health concerns, did it  
20 not?

21 MR. LONG: Are you saying that Lorillard

THE REALTIME REPORTING GROUP, INC.

82480771

1 marketing related to health concerns or that the  
2 consumer preference related to health concerns?

3 MR. EDELL: You can work it from either  
4 end.

5 MR. LONG: If you want him to answer the  
6 question, you have to tell him which direction.

7 MR. EDELL: He had no problem answering  
8 the question before you said that.

9 MR. LONG: There was a long pause, he  
10 was thinking.

11 MR. EDELL: You can think as long as you  
12 like.

13 Q. The question is whether or not the  
14 marketing plan by Lorillard, insofar as its  
15 long-term approach to the marketing of its product,  
16 was geared to the health, concerns of consumers?

17 A. It was certainly geared to consumer  
18 preferences and what they would ask them for, which  
19 I already stated I think the consumers felt that  
20 there was a health advantage to them smoking  
21 reduced tar or filtered cigarettes.

THE REALTIME REPORTING GROUP, INC.

82480772

1 Q. Did Lorillard attempt to convey to its  
2 consumers the fact that there were health benefits  
3 to smoking their products?

4 A. Not to my knowledge. The only things I  
5 remembered, the advertisement stated that these  
6 cigarettes had lower tar.

7 Q. You don't remember that being part of  
8 their marketing program, to convey to their  
9 consumers that their products from a health  
10 perspective were better than other products on the  
11 market?

12 A. Not during my tenure, no.

13 MR. LONG: I think you mean --

14 Q. You say not during your tenure, you mean  
15 not during the years you were employed by  
16 Lorillard?

17 A. Correct.

18 Q. You are not familiar with the marketing  
19 research with respect to True cigarettes?

20 A. Not at its inception, it predated my  
21 joining the company.

THE REALTIME REPORTING GROUP, INC.

82480773

1 Q. You didn't review that information?

2 MR. LONG: When?

3 MR. EDELL: At any point in time. You  
4 never reviewed that information?

5 A. I may have. I don't recall having  
6 reviewed it. I was not in marketing.

7 Q. When you were in marketing, was there  
8 any attempt by Lorillard, with respect to, let's  
9 say True, to convey to consumers, that there were  
10 health benefits to smoking true cigarettes?

11 A. Not to my knowledge.

12 Q. Were you aware that True cigarette  
13 smokers viewed True cigarettes as a more healthy  
14 cigarette than others on the market?

15 A. It is my personal opinion that smokers  
16 of all ultra-low tar cigarettes by and large felt  
17 that that was the case for their cigarettes,  
18 including the smokers of True.

19 Q. I don't want to know your personal  
20 opinion. I want to know your opinion as a person  
21 with Lorillard for almost 30 years.

THE REALTIME REPORTING GROUP, INC.

82480774

1           MR. LONG: He already testified that he  
2 is not knowledgeable about the True advertising.  
3 You asked him a question and he said, yes, that is  
4 my perception with all low-tars including True.  
5 You may not like the answer, but that doesn't mean  
6 you have to go back and try to keep getting an  
7 answer that you do like.

8           Q. Is it your testimony that you have never  
9 seen the marketing and advertising proposals with  
10 respect to True cigarettes?

11          A. Absolutely not. Absolutely it is not  
12 true that I said I have never seen any marketing  
13 and advertising of True

14           MR. EDELL: That was the inference that  
15 counsel suggested.

16           MR. LONG: No. You are talking about  
17 one time period when he said he didn't.

18          Q. Let's make sure we are all on the same  
19 plate. You are familiar with marketing and  
20 continuing research done with respect to True  
21 cigarettes that related to Lorillard's consumers'

THE REALTIME REPORTING GROUP, INC.

82480775

1 perception that True was a safe cigarette,  
2 correct?

3 A. No. We didn't investigate issues of  
4 safety.

5 Q. You are as sure of that as everything  
6 else you have said here today; is that correct?

7 MR. LONG: That he hasn't seen them?

8 MR. EDELL: That we didn't investigate  
9 issues of perception of safety by your consumers.

10 A. I didn't say perceptions. I said we  
11 didn't investigate safety issues.

12 Q. We have established that you didn't --

13 A. I earlier stated that I felt that  
14 smokers of low tar cigarettes had a perception that  
15 they were safer.

16 Q. My question was: Was there research  
17 conducted by Lorillard or at their behest that  
18 investigated the perception of their customers with  
19 respect to the safety of any of their products?

20 A. I don't recall any research related to  
21 safety.

THE REALTIME REPORTING GROUP, INC.

82480776



1           Q.     Not related to safety. I want to make  
2     sure we understand.

3           A.     I am misunderstanding you then.

4           Q.     Not whether or not Lorillard did any  
5     research to see whether their product was safe.  
6     Whether or not they did marketing research to  
7     determine how their consumers perceived their  
8     products with respect to the issue of health and  
9     safety.

10          A.     I think I have answered that. I said I  
11     don't know of any research that addressed that  
12     issue in that way.

13          Q.     You are as sure of that as you are  
14     everything else you have said today; is that  
15     correct?

16          A.     Yes. I'm sure of it.

17          Q.     I just wanted to make sure.

18                 Did any research that was conducted by  
19     Lorillard or any of its agents, outside agencies,  
20     relate to why people used, for example, true  
21     cigarettes?

THE REALTIME REPORTING GROUP, INC.

82480777

1           A.     Yes.

2           Q.     Did it have anything to do with their  
3     perception of a cigarette?

4           A.     Yes.

5           Q.     With their perception of whether or not  
6     it was or was not more or less advantageous to use  
7     True from a health perspective?

8           A.     I don't think from a health  
9     perspective. They were aware it was an ultra low  
10    tar and nicotine cigarette, another group of True  
11    smokers, when they were asked, another reason they  
12    liked it was the construction of the filter.

13          Q.     Did True cigarette smokers view True as  
14    an alternative to their quitting, as a safer  
15    alternative between continuing to smoke other  
16    brands versus True cigarettes?

17               MR. LONG: I'm going to let him answer.  
18    Could you explain how that relates to the class  
19    issues we are here on? You are at some point  
20    certainly entitled to merits. But under the case  
21    management order, we are to be addressing class

THE REALTIME REPORTING GROUP, INC.

82480778

1 certification issues. We have the affidavit on the  
2 design issues, and you are talking about something  
3 else now.

4 MR. EDELL: It may relate to whether or  
5 not there are additional ways of defining the  
6 class, whether there are subclasses.

7 MR. LONG: Really?

8 MR. EDELL: Really.

9 A. I am not aware of any research in that  
10 area. I do recall an old ad that had the word  
11 "quitting" in it related to True. I don't  
12 remember the specifics of it. I'm not sure of the  
13 time frame. I think it was pretty old.

14 Q. You weren't aware that the research  
15 related to True cigarette smokers indicated the  
16 inability to discontinue the use of cigarettes and  
17 therefore they used True as an alternative to  
18 quitting?

19 A. Repeat that, please?

20 Q. You weren't aware that the research  
21 related to True cigarette smokers indicated the

THE REALTIME REPORTING GROUP, INC.

82480779

1 inability, their inability to discontinue the use  
2 of cigarettes and therefore they used True as an  
3 alternative to quitting?

4 A. I'm not aware of research in that  
5 regard, no.

6 Q. What brands were manufactured by  
7 Lorillard during the time period you were there,  
8 and for what period of time each of those brands  
9 manufactured?

10 A. I don't know if I can give you a  
11 complete list. I will talk until I run out of  
12 gas.

13 MR. LONG: You want to refresh your  
14 recollection from one of the documents we have  
15 here?

16 MR. EDELL: I think he is suggesting  
17 that you look at the document.

18 MR. LONG: I'm saying if you want an  
19 accurate list, he can look at a document.

20 THE WITNESS: I don't think a document  
21 would be all-encompassing.

1 MR. LONG: We can start with the  
2 Maxwell.

3 MR. GUSTAFSON: One is Lorillard  
4 specifically.

5 Q. There is a typed list of Lorillard  
6 Tobacco Company brands and brand styles 1960 to  
7 present. Did you prepare that list?

8 A. No. I did not.

9 Q. Who prepared that list?

10 MR. LONG: I think it is an  
11 interrogatory response that was given recently.

12 MR. EDELL: I'm asking the witness  
13 whether he knows?

14 A. I just said I did not, and I don't know.

15 Q. You don't know who prepared it?

16 A. No.

17 Q. Did you rely upon that list in any way  
18 to formulate your opinions in this case?

19 A. No, sir.

20 MR. EDELL: Why don't we mark this as  
21 Exhibit 89? We'll mark the list your counsel says

1 is part of answers to interrogatories --

2 MR. LONG: Your subpoena duces tecum  
3 asked for a list of brands or something, and that's  
4 what this is.

5 MR. EDELL: We'll mark this Maxwell  
6 publication you have given us as 90.

7 Q. I'm going to show you Plaintiff's  
8 Exhibit 90. Where did you get that?

9 A. From my personal files in my office.

10 Q. And does that reflect the various brands  
11 manufactured by Lorillard over the years?

12 A. It did not include some brands that were  
13 test marketed. It includes the brands that were  
14 sold nationally.

15 Q. Does it also indicate for what years  
16 they were sold nationally?

17 A. I can't find the Lorillard brands on  
18 this. That's the competitive companies.

19 MR. LONG: Did you bring the original  
20 with you?

21 THE WITNESS: Yes.

THE REALTIME REPORTING GROUP, INC.

82480782

1 MR. LONG: Get it out.

2 MR. LONG: You want to put the sticker  
3 on this and we'll copy it and put it in?

4 MR. EDELL: Fine. We'll just need  
5 another 89.

6 (Whereupon, Plaintiff's Deposition  
7 Exhibit No. 89, brand list, marked.)

8 (Whereupon, Plaintiff's Deposition  
9 Exhibit No. 90, brand list, marked.)

10 Q. The document marked as 89, that reflects  
11 the various brands manufactured by Lorillard in the  
12 years they were manufactured; is that correct?

13 MR. LONG: For a certain time period.

14 Q. For what time period?

15 A. It goes back 65 years, as I recall, up  
16 through 1990, I believe. From 1925 to 1989.

17 Q. I'm sorry, that's 90, the document we're  
18 talking about is Plaintiff's Exhibit 90.

19 A. Yes. It is Exhibit 90.

20 Q. Thank you.

21 A. It covers the time period 1925 to 1989.

THE REALTIME REPORTING GROUP, INC.

82480783

1 I did refer to it in the preparation of my  
2 affidavit.

3 Q. Does that also list the percentage of  
4 the market that these various cigarettes had?

5 A. Yes.

6 Q. Do you have any reason to believe that  
7 the information contained in this is not accurate?

8 A. No. I think it would be accurate.  
9 There could be an occasional typo in there, but it  
10 should be accurate.

11 Q. In your review of the materials, you  
12 didn't see any obvious errors, did you?

13 A. No. But I didn't look at every market  
14 share for every year, but, no, I saw no errors.

15 Q. Did you look at Lorillard's market share  
16 for the various products?

17 A. Yes. I did.

18 Q. Did you see any errors with respect to  
19 the Lorillard brands?

20 A. If I did, I didn't focus on that. I was  
21 interested in seeing when brands were introduced

THE REALTIME REPORTING GROUP, INC.

82480784



1 and what time frame, for the purposes of the  
2 statements I put in here.

3 Q. Have there been major brands of  
4 Lorillards over the years?

5 A. Yes.

6 Q. How did you define major brand?

7 A. It is very important to Lorillard as a  
8 portion of our sales, they may not be major in  
9 terms of the total marketplace.

10 Q. What percentage of your overall  
11 cigarette sales would you consider before a product  
12 became a major brand? In other words, let's say is  
13 it a product that accounts for 30 percent of their  
14 cigarette sales or 40 percent or 20 percent or 10  
15 percent?

16 A. Of Lorillard's sales?

17 Q. Yes.

18 A. All the brands that we marketed, we  
19 consider to be important.

20 Q. Major, talking about major. Every brand  
21 is important.

THE REALTIME REPORTING GROUP, INC.

82480785

1           A.     In our view, at least my personal view,  
2     we had three major brand families.

3           Q.     What are they?

4           A.     Kent, Newport and Old Gold.

5           Q.     What percentage of sales could be  
6     attributed to those three major brand areas?

7           MR. LONG:   When?

8           MR. EDELL:   1985 to 1990?

9           A.     It would vary over time, at one point,  
10    Old Gold accounted for up to 90 percent of our  
11    sales.

12          Q.     Up to what point in time?

13          A.     You want me to refer to the document for  
14    an answer or give you an approximation?

15          Q.     If you can readily do that, that would  
16    be helpful.

17          A.     Old Gold was our dominant brand through  
18    1956, it would appear to me.

19          Q.     When you say "dominant brand", what  
20    percentage are you referring to?

21          MR. LONG:   Of Lorillard sales?

THE REALTIME REPORTING GROUP, INC.

82480786

1 A. Of Lorillard sales?

2 Q. Yes.

3 A. Just a second. In excess of 85 percent.

4 Q. And then what became, Kent became a  
5 bigger components?

6 A. Yes.

7 Q. Through what period of time?

8 A. From about 1957 -- from '59 to '66, Kent  
9 represented more than 50 percent of our business.  
10 It fell from that from '67 on, but still  
11 quite important up into the mid seventies.

12 Q. What filled up the shortfall from the  
13 percentage point of view?

14 A. Newport and True for that period of  
15 time.

16 Q. They accounted for how much. Between  
17 Newport, True and Kent, what percentage did those  
18 three brands from 1957 to the present account for  
19 in terms of overall Lorillard sales?

20 A. Did you say from '67 to the present?

21 Q. Yes.

THE REALTIME REPORTING GROUP, INC.

82480787

1           A.     Can I have a pencil?

2           Q.     Yes.

3           A.     I will do it for '67 and '77 if that is  
4     acceptabale. If you want to take the time, I will  
5     calculate it for every year.

6           MR. LONG: You realize he has to  
7     calculate this based on numbers a year, you are  
8     asking him to do some wild averaging of ten years.

9           MR. EDELL: I'm asking you to give me an  
10    approximation between 10 percent, not to give -- I  
11    don't want it out to the 14th decimal point.

12          MR. LONG: He has to run the numbers to  
13    see if there is a 10 percent difference between the  
14    beginning and the end.

15          MR. EDELL: We were just given the  
16    document that he has.

17          MR. LONG: Yes. What he has is what the  
18    document says. To get the numbers you are asking  
19    for, he has to do these calculations. That's all  
20    I'm saying. We're all assuming he is doing the  
21    calculations correctly and relying upon that.

THE REALTIME REPORTING GROUP, INC.

82480788

1 MR. EDELL: He is the expert.

2 MR. LONG: Didn't say he was an expert  
3 in math.

4 MR. EDELL: He is the expert in terms of  
5 the class action.

6 MR. LONG: Loan long I'm saying bear in  
7 mind he is working with the numbers on the Maxwell  
8 chart.

9 MR. EDELL: Which is a reliable source.

10 MR. LONG: You get my point, he has to  
11 do some math.

12 MR. EDELL: I got it.

13 A. Okay. In 1977, Newport represented  
14 approximately 15 percent of our business, Kent  
15 approximately 60 percent of our business, True  
16 approximately 16 percent of our business and Old  
17 Gold approximately 10 percent of our business.  
18 That adds up to 91 percent, to that is within the  
19 10 percent you asked for. That is '67. Do you  
20 want to jump now to '77?

21 Q. Fine with me, unless you think there

THE REALTIME REPORTING GROUP, INC.

82480789

1 would be some substantial benefit for us doing it  
2 by five-year versus ten years.

3 MR. LONG: How is He going to know that  
4 when he doesn't know the purpose of your question?

5 Q. I will tell you the purpose of the  
6 question. The purpose of the question is to see  
7 whether or not, in fact, the overwhelming  
8 percentage of the sales were restricted over the  
9 entire period of time to four brands of  
10 cigarettes: Kent, True, Newport and Old Gold.

11 MR. LONG: For purposes of  
12 clarification, when you did these numbers, is that  
13 every style in the brand family?

14 THE WITNESS: Yes. I have lumped them.

15 MR. EDELL: That's fine with me.

16 A. Yes. Those four brands would account  
17 for the majority of our sales over this whole time  
18 period. The mix within those would vary.

19 Q. When you say the majority, we are  
20 talking about close to 90 percent, 85 to 90  
21 percent?

THE REALTIME REPORTING GROUP, INC.

82480790

1           A.     My estimate would be in excess of 75  
2     percent, without doing all the calculating.  
3     Perhaps higher.

4           Q.     When you say "perhaps higher" do you  
5     believe it is greater than 75 percent, any years  
6     you believe it was less than that?

7           A.     No. I believe it will always be at  
8     least 75 percent, probably more.

9           Q.     At least 80 percent?

10          A.     Sir, if you keep doing this, I have to  
11     go back and recalculate the numbers. 80 percent,  
12     plus or minus ten, certainly.

13          Q.     Thank you. Maybe we can do it the other  
14     way. Have there been any brands that have  
15     accounted for more than five percent of Lorillard  
16     sales over all of these years, other than the four  
17     general brand areas that we have talked about?

18                 MR. LONG: Again, you mean a brand  
19     family?

20                 MR. EDELL: A brand family.

21          A.     I don't think there would be any more

THE REALTIME REPORTING GROUP, INC.

82480791

1     than 10 percent. I am not sure of your question of  
2     five percent.

3           Q.     Okay. Lorillard used these four  
4     different categories or five different categories  
5     that you have listed as a means to adjust the tar  
6     and nicotine yields of cigarettes, is that correct,  
7     in paragraph 8?

8           A.     Would you repeat the question again,  
9     Lorillard used what?

10          Q.     These five various means by which to  
11     adjust the tar and nicotine yields of its products?

12          A.     What five variables?

13          Q.     Reconstituted tobacco, extended  
14     tobacco --

15          A.     Oh, A through E?

16          Q.     Yes.

17          A.     Yes.

18          Q.     When was the first time they tried to  
19     use any of these as a means to reduce overall tar  
20     and nicotine? Was it filters, is that fair to  
21     say?

THE REALTIME REPORTING GROUP, INC.

82480792



- 1           A.     That's fair to say.
- 2           Q.     That was in the --
- 3           A.     Mid 1950's, I believe.
- 4           Q.     From 19 -- the mid 1950's, to the early  
5           sixties, was that the only means that was used by  
6           Lorillard to adjust the tar and nicotine yield of  
7           its products?
- 8           A.     Repeat the time frame, please, you said  
9           from the mid 50's --
- 10          Q.     The mid 1950's to the early 1960's, was  
11          that the only means, again, referring to the use of  
12          filters?
- 13          A.     I think that's fair to say.
- 14          Q.     Then in the early 1960's, they added  
15          reconstituted tobacco as a means to adjust the tar  
16          and nicotine yield; is that correct?
- 17          A.     I don't believe it was the early  
18          sixties.
- 19          Q.     I thought that's what you said in your  
20          affidavit, to I thought it was correct.
- 21          A.     Yes, it is.

1 Q. Lorillard did not begin using  
2 reconstituted tobacco until the early 1960's; is  
3 that what that says?

4 A. That's what it says.

5 Q. Where did you get that information?

6 A. From our reports, internal documents.

7 Q. Do they continue to use reconstituted  
8 tobacco today?

9 A. Correct.

10 Q. And then they added in the mid 1960's, a  
11 change in the ventilation design to adjust the tar  
12 and nicotine yields?

13 A. It was the sixties when we started  
14 incorporating ventilation, yes.

15 Q. In approximately 1966, you say?

16 A. Yes.

17 Q. And then in 1972, you added -- they  
18 added expanded tobacco as a means to adjust the tar  
19 and nicotine yield, correct?

20 A. That's one result of expanded tobacco,  
21 yes.

THE REALTIME REPORTING GROUP, INC.

82480794

1 Q. That is the reason they used the  
2 extended tobacco, to adjust the tar and nicotine  
3 yields?

4 A. I believe the main thing at the time was  
5 cost savings. I believe that's stated in here as  
6 well, yes.

7 Q. To it wasn't primarily a means to adjust  
8 the tar and nicotine; is that right?

9 A. I don't believe it was.

10 Q. To is it fair to say that all of these  
11 different changes that you say are incorporated in  
12 the various designs was simply a means, insofar as  
13 what is relevant here, is simply a means to adjust  
14 the tar and nicotine yields?

15 MR. LONG: I object. Marc, he testified  
16 the main use of extended tobacco was something and  
17 now you are saying it was the means.

18 Q. Is there anything else other than these  
19 five different design changes that Lorillard  
20 employed to change the tar and nicotine yield?

21 MR. LONG: Object again. Now, you are

THE REALTIME REPORTING GROUP, INC.

82480795

1 saying or you are implying --

2 MR. EDELL: I agree with you.

3 Q. Is there anything other than these five  
4 design changes that resulted in a change in the tar  
5 and nicotine yields of Lorillard products?

6 A. I don't think to. May I ask for a  
7 five-minute break?

8 (Break.)

9 MR. EDELL: I'm trying to see what I can  
10 ask you to use up the time that doesn't relate to  
11 these documents I can't ask you about, Doctor. To  
12 bear with me.

13 With the understanding we have agreed  
14 that we will come back and finish his deposition  
15 when and if there is a protective order in place,  
16 is that correct, Mr. Long?

17 MR. LONG: When do you want to do that?  
18 Let me ask you that. We have no problem producing  
19 him later on for a merits deposition.

20 MR. EDELL: There are documents that  
21 relate to not only merits but other issues, that

THE REALTIME REPORTING GROUP, INC.

82480796

1 you object to my using during the course of this  
2 deposition because we have not reached an accord on  
3 a protective order, correct?

4 MR. LONG: Right.

5 MR. EDELL: I thought we agreed that we  
6 are going to try to iron out those differences. If  
7 not, you will make an emergent application for a  
8 protective order and we can continue this  
9 deposition after the court or we resolve the issue  
10 of protective orders. Am I incorrect?

11 MR. LONG: No. I was thinking you are  
12 entitled to request that, and I'm not going to  
13 object to that.

14 MR. EDELL: Do we have an accord on that  
15 issue?

16 MR. LONG: Yes.

17 Q. Let's talk about your background. You  
18 got your ABA from University of East Carolina in  
19 1963?

20 A. My A.B.

21 Q. What did you do after that?

1           A.     I went to graduate school, Emory  
2     University in Atlanta.

3           Q.     For four years?

4           A.     And three months.

5           Q.     And three months. And you graduated  
6     with a Ph.D. in chemistry, organic chemistry?

7           A.     Yes.

8           Q.     You immediately became the research  
9     chemist at Lorillard?

10          A.     Yes.

11          Q.     What did you do?

12          A.     Synthetic organic chemistry.

13          Q.     What does that mean?

14          A.     I was synthesizing compounds that the  
15     company had interest in.

16          Q.     Synthesizing compounds that the company  
17     had interest in, synthesizing what compounds?

18          A.     Specifically, a compound known as PMO in  
19     the early days when I first joined the company.

20          Q.     What is PMO?

21          A.     Phenylmethyl oxadiazole.

THE REALTIME REPORTING GROUP, INC.

82480798

1 Q. What was the purpose of your research?

2 A. It was my job to produce the chemical,  
3 the compound, it was being used by others for  
4 testing.

5 Q. Can you explain to me what you mean?  
6 What context were you introducing the chemical  
7 compound?

8 A. I was preparing it for others for use in  
9 testing they were doing.

10 Q. What type of testing?

11 A. I'm not expert in the area, but I know  
12 the compound was added to cigarettes, and if I  
13 recall correctly, it was thought that it had an  
14 effect on ciliostatic activity.

15 Q. That is the lung's mechanism --

16 A. The little hair follicles as I  
17 understand it. I don't know much about that area.

18 Q. Is that for product development?

19 A. Not at that time, I don't think. I  
20 think it was for testing to see if, in fact, it did  
21 have an effect on ciliostatic activity.

THE REALTIME REPORTING GROUP, INC.

82480799

1 Q. Did it?

2 A. I don't know. It was purported to have,  
3 but I was a new chemist at the time, and it was my  
4 job to produce it and purify it and hand it over to  
5 somebody else.

6 Q. They didn't know let you know what the  
7 results were?

8 A. It wasn't an issue of that.

9 Q. Okay.

10 A. I don't know the results. I know there  
11 were consultants working on the project, but I  
12 didn't know them, I didn't talk with them.

13 Q. Who were the consultants?

14 A. If I remember correctly, their names  
15 were Dahlham and Reilander. I believe they were in  
16 Sweden.

17 Q. Did you have any contact with those  
18 individuals?

19 A. I don't believe to. May have been  
20 introduced to them in passing. No discussions with  
21 them.

THE REALTIME REPORTING GROUP, INC.

82480800



1 Q. For what period of time did you do this  
2 research on these phenyls?

3 A. Best of my recollection, the two years  
4 that I was in the research department, when I  
5 joined the company.

6 Q. 1970 through 1972, you were a supervisor  
7 of product development?

8 A. Yes.

9 Q. What did that entail?

10 A. That entailed product development, as we  
11 have talked about today, but at that point, I was  
12 just starting to learn about blending, flavoring,  
13 filters, supervising a group of chemists already  
14 employed in product development.

15 Q. '72 to '77 you were manager of product  
16 development international?

17 A. Yes, sir.

18 Q. Does that mean you didn't have any  
19 involvement with domestic activities at all?

20 A. It was not one of my responsibilities,  
21 but I was based in Greensboro and in the R and D

THE REALTIME REPORTING GROUP, INC.

82480801

1 center, to I had familiarity with the product  
2 development.

3 Q. But you didn't have any responsibility  
4 for any domestic branch; is that correct?

5 A. That's correct.

6 Q. '77 through '83, you were the manager of  
7 operations and research planning?

8 A. Yes, sir.

9 Q. What does that mean?

10 A. Essentially, I moved from the R and D  
11 center to the manufacturing center. I essentially  
12 acted as a liaison between R and D, manufacturing,  
13 marketing and the leaf department.

14 Q. And what did you do?

15 A. Project scheduling, keeping the  
16 marketing people abreast of timings when new  
17 equipment was needed to produce a new brand, when  
18 it would be delivered and installed, planning if  
19 you want production requirements.

20 Q. Did you have anything to do with design  
21 of cigarettes, domestic cigarettes?

THE REALTIME REPORTING GROUP, INC.

82480802

1           A.     It was not a key responsibility, but I  
2     still interfaced with the product development  
3     group.

4           Q.     Whose responsibility was it for the  
5     design of domestic cigarettes from 1972 to 1983 at  
6     Lorillard?

7           A.     The person whose title was supervisor  
8     product development, which was mine until 1972, was  
9     Al Hudson.

10          Q.     Is he no longer with the company?

11          A.     He is deceased.

12          Q.     That's through '72. What about '72  
13     through '77?

14          A.     No. That was from '72 forward for some  
15     years.

16          Q.     Mr. Hudson?

17          A.     Yes.

18          Q.     And then in '83, you became director of  
19     marketing research, correct?

20          A.     Yes.

21          Q.     Did you design cigarettes during that

THE REALTIME REPORTING GROUP, INC.

82480803

1 period of time?

2 A. I would say no.

3 Q. Did you ever design a cigarette?

4 A. Yes.

5 Q. I asked you that, didn't I?

6 A. Yes.

7 Q. What cigarette did you design?

8 MR. LONG: You asked him had he worked

9 on various cigarette brands.

10 Q. What cigarette did you design?

11 A. I'm not sure I designed one in its

12 entirety by myself. We work as a group in product

13 development. I had major input into the design of

14 several products.

15 Q. What products?

16 A. Kent Golden Lights, Kent III.

17 Q. Anything else?

18 MR. LONG: Isn't this -- didn't we go

19 through in this morning?

20 MR. GUSTAFSON: Yes.

21 MR. EDELL: I don't remember asking

THE REALTIME REPORTING GROUP, INC.

82480804

1 specifically about these.

2 MR. LONG: You got him to list the  
3 cigarettes he had input into the development of.

4 MR. EDELL: I thought it was a general  
5 question of what did he participate in the  
6 revisions of or the design? That was the question,  
7 but I'll check the notes.

8 A. My recollection is when you pursued it  
9 this morning, I said I was involved to some degree  
10 with every brand that was designed from '70 onward.

11 Q. To some degree either in the context of  
12 marketing research?

13 MR. LONG: He said designing.

14 Q. From '70 onward you were involved to  
15 some degree in every product manufactured by  
16 Lorillard; that is your testimony?

17 A. Probably not every brand, but most of  
18 the brands. I still had an ongoing involvement.

19 Q. Were you involved from the marketing  
20 perspective?

21 A. No. Also from the development

THE REALTIME REPORTING GROUP, INC.

82480805

1 perspective.

2 Q. When was the last time you were involved  
3 in the development perspective?

4 A. The last time?

5 Q. From 1992 to the present, you were  
6 involved in development, right?

7 A. Yes, but from 1970 to present, I have  
8 had some involvement. It is varied over time.

9 Q. How much involvement did you have, for  
10 example, when you were director of marketing  
11 research from 1983 to 1992, in the design of  
12 cigarettes?

13 A. Much less than when I was based in  
14 Greensboro.

15 Q. What was it, to we can get a better  
16 handle on this?

17 A. I'm sure from time to time, I acted as  
18 an internal consultant to people in product  
19 development. I maintained a relationship with the  
20 people in product development. I knew the  
21 parameters that they were trying to develop, to I

THE REALTIME REPORTING GROUP, INC.

82480806

1 am sure I discussed with them ways to achieve the  
2 intended result.

3 But, no, it was not my primary  
4 responsibility during that time frame.

5 Q. When was it your primary  
6 responsibility?

7 A. Certainly from 1992 to present, but from  
8 '70 to '72 and from '92 to present.

9 MR. LONG: '70 to '72 or '70 to '82?

10 A. '70 to '72, to I was in foreign  
11 development, to though domestic was not my primary,  
12 I had some involvement.

13 MR. EDELL: Subject to my asking  
14 questions that relate to these documents, I have  
15 nothing further at this time.

16 MR. LIPSON: Thank you.

17 (Discussion off the record.)

18 EXAMINATION BY MR. LONG:

19 Q. Dr. Jones, I have a few very brief  
20 questions to ask, I think. Number one, if I can  
21 look back at what is marked as Plaintiff's

THE REALTIME REPORTING GROUP, INC.

82480807

1 Deposition Exhibit No. 88. If you will look at the  
2 cover memo attached to that, can you read into the  
3 record the second sentence of that first  
4 paragraph?

5 A. Although most of the material --

6 MR. EDELL: He just asked you whether  
7 you could.

8 THE WITNESS: Yes. I can.

9 MR. EDELL: Thank you. I want to make  
10 sure we're being careful here.

11 Q. Read it.

12 A. Although most of the material is fairly  
13 recent, I'm not sure what is relevant.

14 Q. What does that mean to you?

15 A. It means I did my best to report what  
16 was in all this literature and I'm not an expert in  
17 that area.

18 Q. Mr. Edell asked you earlier this  
19 morning, seems like hours ago, about certain  
20 chemicals which were in the particulate matter of  
21 cigarette smoke; do you recall that?



1           A.     Yes, sir.

2           Q.     I think at times there was reference to  
3     these chemicals being carcinogens, and what I will  
4     ask you is: Do you have a professional opinion, an  
5     expert opinion, as to whether those chemicals are  
6     carcinogens?

7           A.     I'm not an expert in that area. I have  
8     read where some of these chemicals are reported to  
9     be carcinogens, cigarette smoke, they are not in  
10    very high levels.

11          Q.     At what levels are these chemicals in  
12    cigarette smoke?

13          A.     I can't recall with certainty, some are  
14    recorded in parts per billion, some in nanograms.

15          Q.     Even though you are dealing with trace  
16    amounts, does the amount of these chemicals that  
17    Mr. Edell mentioned, do they vary from cigarette  
18    brand to cigarette brand?

19          A.     My best estimate is only with the  
20    difference in tar deliveries. Generally, I would  
21    think that the higher tar cigarette would have more

THE REALTIME REPORTING GROUP, INC.

82480809

1 of these than a low-tar cigarette, only in that  
2 sense.

3 Q. You talked a bit this morning with  
4 Mr. Edell about the nicotine enrichment program.  
5 Can you recall that?

6 A. I recall parts of that.

7 Q. To the best of your knowledge, was any  
8 of the technology that Lorillard investigated in  
9 the nicotine enrichment program ever used in a  
10 cigarette that wastest marketed?

11 A. Not to my knowledge.

12 Q. Was any of the technology that Lorillard  
13 explored in the nicotine enrichment program ever  
14 used in a cigarette that Lorillard commercially  
15 marketed?

16 A. Not to my knowledge.

17 MR. LONG: That's all I have.

18 EXAMINATION BY MR. EDELL:

19 Q. Dr. Jones, during the years 1972 through  
20 1977, you told us that you were not involved in the  
21 design of domestic cigarettes; is that correct?

THE REALTIME REPORTING GROUP, INC.

82-80810

1           A.     I said that was not one of my primary  
2     responsibilities.

3           Q.     You were involved in the design?

4           A.     To some degree.

5           Q.     From 1983 to 1992, were you involved in  
6     all of the components of each of the cigarettes?  
7     Were you aware of each of the components of each of  
8     the cigarettes manufactured by Lorillard?

9           MR. LONG: You mean components, you  
10    don't mean just ingredients? You mean design  
11    parameters as well.

12          Q.     Everything put in each of the  
13    cigarettes.

14          A.     No. I would not be aware of everything  
15    that was put in each one of the cigarettes.

16          Q.     Lorillard could have put any number of  
17    substances in any of the cigarettes and would you  
18    not have been aware of it, correct?

19          A.     Certainly correct. I don't like the way  
20    you asked the question, but its certainly correct.

21          Q.     Then it must have been a good question.

THE REALTIME REPORTING GROUP, INC.

82480811

1           A.     I don't think to. There is an  
2     implication there that I didn't mean to be  
3     responding to.

4           Q.     Other than the documents that have been  
5     produced here by your counsel, did you review any  
6     other documents upon which you relied for the  
7     statements contained in your affidavit?

8           A.     No, sir.

9           Q.     You don't intend to rely on any  
10    additional documents at any later juncture; is that  
11    correct?

12          A.     I don't think I'm willing to answer that  
13    yet. I don't know.

14          Q.     Well, certainly, if the witness is going  
15    to be shown additional documents, we would be  
16    entitled to be advised of that.

17                 MR. LONG: Certainly, and depending upon  
18    what documents you plan to use, if there is  
19    something that Dr. Jones needs to refer to to get  
20    the full complete story on it, that may well  
21    happen.

THE REALTIME REPORTING GROUP, INC.

82480812

1 MR. EDELL: Okay.

2 MR. LONG: But I don't think, insofar as  
3 his opinion in the affidavit, I have no plans and I  
4 think he has no plans to look at additional  
5 materials to support what he has put in his  
6 affidavit, but if he needs to respond to something  
7 you bring up in a document it may well be necessary  
8 to show him something else. That is all I'm  
9 saying.

10 MR. EDELL: I have nothing further at  
11 this juncture, again, with the caveat.

12 Again, we are going to mark the  
13 documents he produced individually. Okay.

14 (Examination suspended -- 3:05 p.m.)

15 -----

16 (Whereupon, Plaintiff's Exhibit No.  
17 91, letter dated March 3, 1997 from Brown to Jones,  
18 was marked for identification.)

19 (Whereupon, Plaintiff's Exhibit No.  
20 92, letter to Honorable Warren G. Magnuson, was  
21 marked for identification.)

THE REALTIME REPORTING GROUP, INC.

82480813

1                   (Whereupon, Plaintiff's Exhibit No.  
2   93, current cigarette brands as of 3/96, was marked  
3   for identification.)

4                   (Whereupon, Plaintiff's Exhibit No.  
5   94, notice of deposition, was marked for  
6   identification.)

7                   (Whereupon, Plaintiff's Exhibit No.  
8   95, CV, was marked for identification.)

9                   (Whereupon, Plaintiff's Exhibit No.  
10  96, memorandum dated February 27, 1996, was marked  
11  for identification.)

12                  (Whereupon, Plaintiff's Exhibit No.  
13  97, memo dated February 11, 1997, was marked for  
14  identification.)

15                  (Whereupon, Plaintiff's Exhibit No.  
16  98, invoice dated 11/27/95, was marked for  
17  identification.)

18                  (Whereupon, Plaintiff's Exhibit No.  
19  99, invoice dated 2/12/96, was marked for  
20  identification.)

21                  (Whereupon, Plaintiff's Exhibit No.

THE REALTIME REPORTING GROUP, INC.

82480814

1 100, invoice 97-03 dated April 2, 1997, was marked  
2 for identification.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

THE REALTIME REPORTING GROUP, INC.

82480815

1	INDEX OF EXAMINATION	
2	BY MR. EDELL.....	5
3	BY MR. LONG.....	174
4	BY MR. EDELL.....	179
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		

THE REALTIME REPORTING GROUP, INC.

82480816



1	INDEX OF EXHIBITS	
2	No. 88, literature review memo.....	106
3	No. 89, brand list.....	150
4	No. 90, brand list.....	150
5	No. 91, letter dated March 3, 1997 from	
6	Brown to Jones.....	180
7	No. 92, letter to Honorable Warren G.	
8	Magnuson.....	180
9	No. 93, current cigarette brands as of 3/96..	181
10	No. 94, notice of deposition.....	181
11	No. 95, CV.....	181
12	No. 96, memorandum dated February 27, 1996...	181
13	No. 97, memo dated February 11, 1997.....	181
14	No. 98, invoice dated 11/27/95.....	181
15	No. 99, invoice dated 2/12/96.....	181
16	No. 100, invoice 97-03 dated April 2, 1997...	181
17		
18		
19		
20		
21		